

MONTANA LEGISLATIVE HISTORY

Chapter 184 19 79

Bill H _____ S 375 Original bill & history ☒ c

H. Committee on State Administration

S. Committee on State Administration

Hearing Date(s) 3-5 _____ c

Hearing Date(s) 2-12 _____ c

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Date Out 3-5 _____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

CHAPTER NO. 184

SENATE BILL NO. 375

INTRODUCED BY GRAHAM

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on State Administration.
February 12, 1979	Committee recommend bill do pass as amended. Report adopted.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 20, 1979	Introduced and referred to Committee on State Administration.
March 5, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Agar* BILL NO. *375*
 2 INTRODUCED BY *Agar*
 3 BY REQUEST OF THE CODE COMMISSIONER
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAW RELATING TO GOVERNMENT STRUCTURE AND
 7 ADMINISTRATION; REPEALING SECTIONS 2-1-103 AND 2-15-202,
 8 MCA, AND SECTIONS 25-506, 25-509, 32-2504, 41-1604, 59-517,
 9 59-537, 59-706 THROUGH 59-708, 80-2001, 82-1306 THROUGH
 10 82-1308, AND 82-4324, R.C.M. 1947."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 2-1-204, MCA, is amended to read:

14 "2-1-204. Military reservations -- service of process.

15 (1) Authority is granted to and acknowledged in the United
 16 States to exercise exclusive legislation as provided by the
 17 constitution of the United States over the military
 18 ~~reservations reservation~~ of Fort-Assiniboine--Fort--Easterv
 19 Fort--Keogh--Fort-Meginnis, Fort Missoulay--and--Fort--Shaw as
 20 now established by law to the same extent and with the same
 21 effect as if ~~said--reservations~~ the reservation had been
 22 purchased by the United States by consent of the legislative
 23 assembly of the state of Montana so long as ~~said--places~~
 24 remain it remains a military reservations reservation.

25 (2) All legal process of the state, both civil and

1 criminal, may be served upon persons and property found
 2 within ~~any of said reservations~~ the reservation in all cases
 3 where the United States ~~has--not~~ does not have exclusive
 4 jurisdiction."

5 Section 2. Section 2-1-302, MCA, is amended to read:

6 "2-1-302. Resolution of Indian tribes requesting state
 7 jurisdiction -- governor's proclamation -- consent of county
 8 commissioners. (1) Whenever the governor of this state ~~shall~~
 9 ~~receive~~ receives from the tribal council or other governing
 10 body of the Confederated Salish and Kootenai Indian tribes
 11 ~~or any other~~ community, band, or group of Indians in this
 12 state, a resolution expressing its desire that its people
 13 and lands be subject to the criminal ~~and/or~~ civil
 14 jurisdiction, ~~or both~~ of the state of Montana to the extent
 15 authorized by federal law and regulation, he shall issue
 16 within 60 days a proclamation to the effect that such
 17 jurisdiction ~~shall apply~~ applies to those Indians and their
 18 territory or reservation in accordance with the provisions
 19 of this part.

20 (2) ~~He shall~~ The governor may not issue such ~~the~~
 21 proclamation until such ~~the~~ resolution has been approved in
 22 the manner provided for by the charter, constitution, or
 23 other fundamental law of the tribe or tribes, if said
 24 document provides for such approval, and there has been
 25 first obtained the consent of the board of county

commissioners of each county which encompasses any portion of the reservation of such tribe or tribes."

Section 3. Section 2-3-113, MCA, is amended to read:

"2-3-113. Declaratory rulings to be published. The declaratory rulings of any board, bureau, commission, department, authority, agency, or officer of the state which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under 2-4-623(6) and 2-4-501, respectively."

Section 4. Section 2-4-102, MCA, is amended to read:

"2-4-102. Definitions. For purposes of this chapter, the following definitions apply:

(1) "Administrative code committee" or "committee" means the committee provided for in Title 5, chapter 10, ~~part 3~~ 14.

(2) "Agency" means any agency, as defined in 2-3-102, of the state government, except that the provisions of this chapter do not apply to the following:

(a) the state board of pardons, except that the board shall be subject to the requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules shall be published in the administrative rules of Montana and Montana administrative register;

(b) the supervision and administration of any penal institution with regard to the institutional supervision,

custody, control, care, or treatment of youths or prisoners;

(c) the board of regents and the Montana university system;

(d) the financing, construction, and maintenance of public works.

(3) "ARM" means the administrative rules of Montana.

(4) "Contested case" means any proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ~~rate-making~~ ratemaking, price fixing, and licensing.

(5) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(6) "Licensing" includes any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(7) "Party" means any person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes.

1 (8) "Person" means any individual, partnership,
2 corporation, association, governmental subdivision, or
3 public organization of any character other than an agency.

4 (9) "Register" means the Montana administrative
5 register.

6 (10) "Rule" means each agency regulation, standard, or
7 statement of general applicability that implements,
8 interprets, or prescribes law or policy or describes the
9 organization, procedures, or practice requirements of an
10 agency. The term includes the amendment or repeal of a prior
11 rule but does not include:

12 (a) statements concerning only the internal management
13 of an agency and not affecting private rights or procedures
14 available to the public;

15 (b) declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of such
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually relating to
21 hunting, fishing, and trapping when there is a statutory
22 requirement for the publication of such rules and rules
23 adopted annually relating to the seasonal recreational use
24 of lands and waters owned or controlled by the state when
25 the substance of such rules is indicated to the public by

1 means of signs or signals;

2 (e) rules implementing the state personnel
3 classification plan, the state wage and salary plan, or the
4 statewide budgeting and accounting system;

5 (f) uniform rules adopted pursuant to interstate
6 compact, except that such rules shall be filed in accordance
7 with 2-4-306 and shall be published in the administrative
8 rules of Montana.

9 (11) "Substantive rules" are either:

10 (a) legislative rules, which if adopted in accordance
11 with this chapter and under expressly delegated authority
12 have the force of law and when not so adopted are invalid;
13 or

14 (b) adjective or interpretive rules, which may be
15 adopted in accordance with this part and under express or
16 implied authority to codify an interpretation of a statute
17 although such interpretation lacks the force of law."

18 Section 5. Section 2-6-103, MCA, is amended to read:

19 "2-6-103. Filing and copying fees. (1) The secretary
20 of state, for services performed in his office, ~~must~~ shall
21 charge and collect the following fees:

22 (a) for each copy of any law, resolution, record, or
23 other document or paper on file in his office, except
24 corporate papers, 40 cents per folio or, if the copy is made
25 by any process of reproduction by photographic, photostatic,

1 or similar process, the fee shall be 50 cents per page or
2 fraction thereof;

3 (b) for affixing certificate and seal, \$2;

4 (c) for receiving and recording each official bond,
5 \$10;

6 (d) for each commission or other document signed by
7 the governor and attested by the secretary of state (pardon,
8 military commissions, and extraditions excepted), \$5;

9 (e) for filing each trademark, \$5;

10 (f) for filing and recording each assignment of a
11 trademark, \$5;

12 (g) for issuing each certificate of record, \$5;

13 (h) for filing and recording miscellaneous papers,
14 records, or other documents, \$5;

15 (i) for filing and recording any other paper not
16 otherwise herein provided for, \$5;

17 (j) for filing and recording any paper, records, or
18 other document or other than a standard form when
19 recommended by the secretary of state, \$5;

20 (k) when a copy of any law, resolution, record, or
21 other document or paper on file in the office of the
22 secretary of state is presented for comparison and
23 certification, 10 cents per folio must be charged and
24 collected for proofreading the same.

25 (2) No member of the legislature or state or county

1 officer ~~can~~ may be charged for any search relative to
2 matters appertaining to the duties of his office or be
3 charged--any--fee for a certified copy of any law or
4 resolution passed by the legislature relative to his
5 official duties.

6 (3) Fees ~~must~~ shall be collected in advance and when
7 collected by the secretary of state ~~must shall~~ be paid--to
8 the--state-treasurer-at-the-end-of-each-quarter--as-provided
9 in-the-constitution deposited pursuant to 17-6-105."

10 Section 6. Section 2-6-302, MCA, is amended to read:

11 "2-6-302. Official records management -- powers and
12 duties. In order to insure the proper management and
13 safeguarding of official records, the Montana historical
14 society shall:

15 (1) establish and operate the state archives as
16 authorized by appropriation for the purpose of storing and
17 servicing official records transferred to the custody of the
18 state archives;

19 (2) in cooperation with the department of
20 administration and ~~any-committee-or-council-established-by~~
21 ~~law-to-regulate-the-retention-of-public-records,~~ the state
22 records committee provided for in 2-15-1013 establish
23 guidelines for the inventorying, cataloging, retention, and
24 transfer of all official records;

25 (3) maintain and enforce restrictions on access to

1 official records in the custody of the state archives in
2 accordance with the provisions of this part;

3 (4) provide adequate housing and care of official
4 records in the custody of the state archives to insure their
5 proper preservation and use by the public;

6 (5) in accordance with the guidelines established
7 pursuant to subsection (2), remove and destroy duplicate
8 official records and official records of insignificant
9 historical value from the records deposited in the state
10 archives."

11 Section 7. Section 2-9-103, MCA, is amended to read:

12 "2-9-103. Actions under invalid law or rule -- same as
13 if valid -- when. (1) If an officer, agent, or employee of
14 ~~the state or of a county, municipality, taxing district, or~~
15 ~~other political subdivision of the state~~ a governmental
16 entity acts in good faith, without malice or corruption, and
17 under the authority of law and that law is subsequently
18 declared invalid as in conflict with the constitution of
19 Montana or the constitution of the United States, neither he
20 nor any other officer or employee of the governmental entity
21 he represents nor the governmental entity he represents is
22 civilly liable in any action in which he, such other
23 officer, or such governmental entity would not have been
24 liable had the law been valid.

25 (2) If an officer, agent, or employee of ~~the state or~~

1 ~~of a county, municipality, taxing district, or other~~
2 ~~political subdivision of the state~~ a governmental entity
3 acts in good faith, without malice or corruption, and under
4 the authority of a duly promulgated rule or ordinance and
5 that rule or ordinance is subsequently declared invalid,
6 neither he nor any other officer, agent, or employee of the
7 governmental unit entity he represents nor the governmental
8 entity he represents is civilly liable in any action in
9 which no liability would attach had the rule or ordinance
10 been valid."

11 Section 8. Section 2-9-306, MCA, is amended to read:

12 "2-9-306. Construction of policy conditions --
13 customary exclusions. Any insurance policy, rider, or
14 endorsement issued and purchased after July 1, 1973, to
15 insure against any risk which may arise as a result of the
16 application of ~~[this act]~~ parts 1 through 3 of this chapter
17 which contains any condition or provision not in compliance
18 with the requirements of ~~[this act]~~ parts 1 through 3 shall
19 not be rendered invalid thereby but shall be construed and
20 applied in accordance with such conditions and provisions as
21 would have applied had such policy, rider, or endorsement
22 been in full compliance with ~~[this act]~~ parts 1 through 3,
23 provided the policy is otherwise valid. This section ~~shall~~
24 ~~may~~ not be construed to prohibit any such insurance policy,
25 rider, or endorsements from containing standard and

1 customary exclusions of coverages which ~~that~~ the department
2 of administration ~~deems--to--be~~ considers reasonable and
3 prudent upon considering the availability and the cost of
4 such insurance coverages."

5 Section 9. Section 2-9-514, MCA, is amended to read:

6 "2-9-514. Additional security. (1) The additional bond
7 given pursuant to 2-9-513(2) must be in such penalty as
8 directed by the court, judge, board, officer, or other
9 person and in all other respects similar to the original
10 bond and approved by and filed with the same officer as
11 required in case of the approval and filing of the original
12 bond.

13 (2) Every such additional bond so filed and approved
14 is of like force and obligation upon the principal and
15 sureties therein, from the time of its execution, and
16 subjects the officer and his sureties to the same
17 liabilities, suits, and actions as are prescribed respecting
18 the original bonds of officers.

19 (3) In no case is the original bond discharged or
20 affected when an additional bond has been given, but the
21 same remains of like force and obligation as if such
22 additional bond had not been given."

23 Section 10. Section 2-15-201, MCA, is amended to read:

24 "2-15-201. Powers and duties of governor. In addition
25 to those the duties prescribed by the constitution, the

1 governor ~~has the power and must~~ shall perform the following
2 duties:

3 (1) He ~~is to~~ shall supervise the official conduct of
4 all executive and ministerial officers.

5 (2) He ~~is to~~ shall see that all offices are filled and
6 the duties thereof performed or, in default thereof, apply
7 such remedy as the law allows. If the remedy is imperfect,
8 he ~~is to~~ shall acquaint the legislature therewith at its
9 next session.

10 (3) He ~~is to~~ shall make the appointments and supply
11 the vacancies as required by law.

12 (4) He is the sole official organ of communication
13 between the government of this state and the government of
14 any other state or of the United States.

15 (5) Whenever any suit or legal proceeding is pending
16 against this state or which may affect the title of this
17 state to any property or which may result in any claim
18 against the state, he may direct the attorney general to
19 appear on behalf of the state and may employ such additional
20 counsel as he may judge expedient.

21 (6) He may require the attorney general or county
22 attorney of any county to inquire into the affairs or
23 management of any corporation existing under the laws of
24 this state.

25 (7) He may require the attorney general to aid the

county attorney in the discharge of his duties.

(8) He may offer rewards not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

(9) He ~~must~~ shall perform such duties respecting fugitives from justice as are prescribed by Title 46, chapter 30.

(10) He ~~must~~ shall issue and transmit election proclamations, as prescribed by 13-11-101.

(11) He ~~must~~ shall issue land warrants and patents, as prescribed in 77-2-342.

(12) He ~~must--on--or--before--the--second--Monday--of--November--in--the--year--1892--and--in--each--second--year--thereafter--deliver--to--the--secretary--of--state--for--publication--at--~~ shall prepare a biennial reports of officers and boards for the 2 preceding years report pursuant to 2-7-102.

(13) He may require any officer or board to make special reports to him, upon demand, in writing.

(14) He ~~must~~ shall discharge the duties of member of the board of examiners, of nonvoting ex officio member of the state board of education, and of member of the board of land commissioners.

(15) He has ~~such~~ the other powers and must perform such ~~the~~ other duties as are devolved upon him by this code or any other law of this state."

Section 11. Section 2-15-401, MCA, is amended to read:
"2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions thereof and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with his attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;

(5) receive and record in proper books the official bonds of all the state officers and then deliver the originals to the state treasurer;

(6) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;

(7) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(8) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, records, or other instrument filed, deposited, or recorded in his office;

~~(9) notify in writing the county attorney of the proper county of the failure of any officer in his county to file in his office the sworn statement of fees received by such officer;~~

~~(10) present to the legislature at the commencement of each session thereof a full account of all purchases made and expenses incurred in furnishing fuel, lights, and stationery;~~

~~(11)(9)~~ keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;

~~(12)(10)~~ file in his office descriptions of seals in use by the different state officers and furnish such officers with new seals whenever required;

~~(13)(11)~~ discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required of him by law;

~~(14)(12)~~ report to the governor at the time as prescribed in 2-7-102, a detailed account of all official actions since his previous report, accompanying the report with a detailed statement, under oath, of the manner in which all appropriations for his office have been expended;

~~(15)(13)~~ receive, designate, and record trademarks as provided in 30-13-103;

~~(16)(14)~~ distribute the bound volumes of the decisions of the supreme court in the manner provided by 3-2-604;

~~(17)(15)~~ report annually to the legislative services division of the legislative council all changes of names received pursuant to 27-31-205 for publication in the session laws;

~~(18)(16)~~ report annually to the legislative services division of the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the session laws.

~~(17) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."~~

Section 12. Section 2-15-412, MCA, is amended to read:

"2-15-412. Board of state canvassers. The board of state canvassers created in 13-15-502 is transferred allocated to the office of the secretary of state for administrative purposes only as prescribed in 2-15-121."

Section 13. Section 2-15-413, MCA, is amended to read:

"2-15-413. Board of election devices. There is a board of election devices as provided in ~~13-18-101~~ 13-18-105. The board is allocated to the office of the secretary of state for administrative purposes only as prescribed in 2-15-121."

Section 14. Section 2-15-1111, MCA, is amended to read:

"2-15-1111. Office of state coordinator of Indian affairs. (1) ~~The There is an~~ office of the state coordinator of Indian affairs is hereby created. The office is allocated to the department of community affairs for administrative purposes only as prescribed in 2-15-121.

(2) The coordinator shall be appointed by the governor from a list of five qualified Indian applicants agreed upon by the tribal councils of the respective Indian tribes of the state and shall serve at the pleasure of the governor."

Section 15. Section 2-15-1605, MCA, is amended to read:

"2-15-1605. Board of medical examiners. (1) There is a Montana state board of medical examiners.

(2) The board consists of seven members appointed by

the governor with the consent of the senate. Appointments made when the senate legislature is not in session may be confirmed at the next senate session.

(3) The members are:

(a) six members having the degree of doctor of medicine; and

(b) one member having the degree of doctor of osteopathy.

(4) The members having the degree of doctor of medicine may not be from the same county. Each member shall be a citizen of the United States. Each member shall have been licensed and shall have practiced medicine in this state for at least 5 years and shall have been a resident of this state for at least 5 years; however, the 5-year requirement of practice and residency shall be waived for the initial term of appointment of the member having the degree and license of doctor of osteopathy.

(5) Each member shall serve for a term of 7 years. A term commences on September 1 of each year of appointment. A member may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 16. Section 2-15-1614, MCA, is amended to

1 read:

2 "2-15-1614. Board of radiologic technologists. (1)

3 There is a board of radiologic technologists.

4 (2) The board consists of seven members appointed by
5 the governor:

6 (a) two members shall be radiologists licensed to
7 practice medicine in Montana;

8 (b) one member shall be a physician licensed to
9 practice medicine in Montana;

10 (c) one member shall be a chiropractor licensed to
11 practice in Montana; and

12 (d) three members shall be radiologic technologists
13 registered with the American registry of radiologic
14 technologists (ARRT) who, with the exception of the first
15 appointed members, are licensed radiologic technologists.

16 (3) Vacancies in unexpired terms shall be filled for
17 the remainder of the term.

18 (4) Each member shall serve for a term of 3 years.

19 (5) The board is allocated to the department for
20 administrative purposes only as prescribed in 2-15-171."

21 Section 17. Section 2-15-1615, MCA, is amended to
22 read:

23 "2-15-1615. Board of speech pathologists and
24 audiologists. (1) There is a board of speech pathologists
25 and audiologists.

1 (2) The board consists of five members, four of whom
2 shall:

3 (a) be appointed by the governor from names submitted
4 to him by the Montana speech and hearing association;

5 (b) have been residents of this state for at least 1
6 year immediately preceding their appointment; and

7 (c) have been engaged in rendering services to the
8 public, teaching, or performing research in the field of
9 speech pathology or audiology for at least 5 years
10 immediately preceding their appointment.

11 (3) At least two members of the board shall be speech
12 pathologists and at least two shall be audiologists, with
13 the remaining member to be a public member who is a consumer
14 of speech pathology or audiology services and who is not a
15 licentiate of the board or of any other board within the
16 department. All board members, except the public member,
17 shall at all times be validly licensed in speech pathology
18 or audiology.

19 (4) Not less than 60 days before the end of each
20 calendar year, the association shall recommend at least
21 three and not more than five persons for each vacancy
22 occurring at the end of the calendar year. In the event of
23 a vacancy for an unexpired term, the association shall
24 expeditiously recommend at least two and not more than three
25 persons to fill the vacancy and the governor shall appoint

one of those persons to fill the unexpired term.

(5) Appointments shall be for 3-year terms with no person eligible to serve more than two full consecutive terms. Terms begin on the first day of the calendar year and end on the last day of the calendar year.

~~(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~

Section 18. Section 2-15-1631, MCA, is amended to read:

"2-15-1631. Board of sanitarians. (1) There is a board of sanitarians.

(2) The board shall consist of three members appointed by the governor. Each member shall be a resident of this state and a registered sanitarian. Each member shall have a minimum of 3 years of experience practicing as a sanitarian in the state of Montana.

(3) Members shall serve for 3-year terms. One term shall expire on July 1 of each year.

~~(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~

Section 19. Section 2-15-1656, MCA, is amended to read:

"2-15-1656. Board of warm air heating, ventilation, and air conditioning. (1) There is a state board of warm air heating, ventilation, and air conditioning.

(2) The board consists of seven members appointed by the governor. The members are:

(a) two master and two journeyman mechanics, who shall be ~~over the age of majority 18 years of age or older~~ residents of Montana for at least 1 year. Each mechanic shall have been licensed pursuant to Title 37, chapter 70, at least 2 years immediately preceding his appointment.

(b) one representative of the department of administration responsible for the administration of parts 1 through 4 of Title 50, chapter 60, who shall act as secretary;

(c) one attorney from the department; and

(d) one representative of the fire marshal bureau.

(3) Each member shall serve for a period of 4 years.

~~(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~

Section 20. Section 2-15-1701, MCA, is amended to read:

"2-15-1701. Department of labor and industry -- head.

(1) There is a department of labor and industry. As prescribed in Article XII, section 2, of the Montana constitution, the department head is the commissioner of labor and industry.

(2) He shall be appointed by the governor, subject to the confirmation of the senate. The term of office of the

1 commissioner shall be 4 years and until his successor is
2 appointed and qualified.

3 (3) The commissioner shall receive an annual salary in
4 such amount as may be specified by the legislature in the
5 appropriation to the department of labor and industry.

6 (4) Before entering on the duties of his office, he
7 must take and subscribe to the oath of office ~~prescribed by~~
8 ~~the Montana constitution.~~

9 Section 21. Section 2-15-2004, MCA, is amended to
10 read:

11 "2-15-2004. Division of forensic science -- head. (1)
12 There is a division of forensic science in the department of
13 justice.

14 (2) The division head is an administrator whose title
15 is state medical examiner and who shall be appointed by the
16 ~~board of forensic science~~ director of the department. He
17 shall be a forensic pathologist qualified or certified by
18 the American board of pathology."

19 Section 22. Section 2-15-2006, MCA, is amended to
20 read:

21 "2-15-2006. Board of crime control -- composition --
22 allocation. (1) ~~The administratively created agency known as~~
23 ~~the governor's crime control commission is hereby created by~~
24 ~~law as the~~ There is a board of crime control, and its
25 functions are continued.

1 (2) The board is ~~transferred~~ allocated to the
2 department for administrative purposes only as prescribed in
3 2-15-121. However, the board may hire its own personnel, and
4 2-15-121(2)(d) does not apply.

5 (3) The board is composed of 18 members appointed by
6 the governor in accordance with 2-15-124, ~~Members are to be~~
7 ~~appointed in accordance with~~ and any special requirements of
8 Title I of the Omnibus Crime Control and Safe Streets Act,
9 as amended. The board shall be representative of state and
10 local law enforcement and criminal justice agencies,
11 including agencies directly related to the prevention and
12 control of juvenile delinquency, units of general local
13 government, and public agencies maintaining programs to
14 reduce and control crime and shall include representatives
15 of citizens and professional and community organizations,
16 including organizations directly related to delinquency
17 prevention."

18 Section 23. Section 2-15-3003, MCA, is amended to
19 read:

20 "2-15-3003. Board of hail insurance. (1) There is a
21 board of hail insurance of five members consisting of the
22 state auditor, the director of agriculture, who is secretary
23 of the board, and three other members to be appointed by the
24 governor from names submitted by farmer organizations having
25 a general membership throughout the state.

(2) The governor shall designate one of the appointive members to act as chairman of the board.

(3) Whenever the term of any member expires, either by death, resignation, removal for cause, or expiration of his term of office, the governor shall appoint his successor and shall also appoint one of the board for chairman in case of a vacancy in that office.

(4) Each appointive member of the board shall be appointed for 3 years, except where ~~when~~ such appointment is made to fill a vacancy on the board, in which event such appointee shall fill out the unexpired term of the member whose place he fills.

(5) All members of the board shall be subject to removal for cause by the governor.

(6) The board is ~~transferred~~ ~~allocated~~ to the department of agriculture for administrative purposes only as prescribed in 2-15-121."

Section 24. Section 2-15-3305, MCA, is amended to read:

"2-15-3305. Rangeland resources committee. (1) The governor may select a committee in accordance with subsection (2) which is composed as follows:

- (a) a chairman who is a rancher;
- (b) a vice-chairman who is a rancher;
- (c) a rancher from the eastern area of the state;

- (d) a rancher from the northern area of the state;
- (e) a rancher from the area of the state west of the continental divide;
- (f) a rancher from the southern area of the state;
- (g) a representative from each of the following agencies:
 - (i) Soil conservation service;
 - (ii) United States forest service;
 - (iii) Montana state university;
 - (iv) Farmers home administration;
 - (v) Montana stockgrowers association;
 - (vi) Office of economic development division;
 - (vii) School of forestry of the university of Montana;
 - (viii) Department of fish and game;
 - (ix) Bureau of land management;
 - (x) Montana wool growers association;
 - (xi) Department of natural resources and conservation;
 - (xii) Bureau of Indian affairs;
 - (xiii) Montana cattlemen's association;
 - (xiv) Department of state lands;
 - (xv) Society for range management;
 - (xvi) United States fish and wildlife service;
 - (xvii) United States agricultural and stabilization service.

(2) (a) The governor shall select the members

described in subsections (1)(a) through (1)(f) from a list submitted by the executive committee of the association of conservation districts and the board of directors of the Montana association of state grazing districts.

(b) The governor shall select the members described in subsection (1)(g) from a list submitted by their respective agencies and/or organizations.

(3) The committee members shall serve without compensation.

(4) All persons appointed to the committee shall serve at the pleasure of the governor.

(5) The committee is allocated to the department for administrative purposes only as prescribed in 2-15-121.

Section 25. Section 2-16-401, MCA, is amended to read:

"2-16-401. Salary commission meetings. (1) (a) There is created a Montana salary commission. The commission is composed of eight members, none of whom may be public officers, either elected or appointed. The commission shall be appointed in the following manner and in the following chronological order:

(i) First, the governor shall appoint one member from each of the two major political parties, equally divided between the United States congressional districts.

(ii) Next, the supreme court shall appoint one member from each of the two major political parties, equally

divided between the United States congressional districts.

(iii) Next, the majority floor leader of the senate shall appoint one member from his political party. The minority leader of the senate shall then appoint one member from his political party not from the same United States congressional district as the member appointed by the presiding officer majority leader.

(iv) Next, the presiding speaker of the house of representatives shall appoint one member from his political party. Lastly, the minority leader in the house of representatives shall appoint one member from his political party not from the same United States congressional district as the member appointed by the speaker.

(b) All appointments shall be made not later than the 60th legislative day.

(2) Commission members shall serve a term of 4 years.

(3) ~~In the event~~ If a vacancy occurs on the commission, the appointing authority of the vacated seat shall designate a successor.

(4) The commission shall choose one of its members as chairman at its initial meeting, and the executive director of the legislative council or his delegate shall serve as secretary to the commission and shall record and transcribe all minutes of commission meetings and prepare all correspondence, notices, and formal recommendations as

1 directed by the chairman.

2 (5) The salary commission shall hold at least two
3 meetings before submitting a report to the legislature as
4 provided in 2-16-402. The commission shall hold its meetings
5 in the year prior to each first regular session of the
6 biennium.

7 (6) All meetings shall be called by the chairman of
8 the commission, and notice of the meeting dates shall be
9 given by mail to each commission member at least 20 days
10 before the day scheduled for the meeting.

11 (7) A majority of members present at any meeting is
12 sufficient to transact any business to come before the
13 meeting; however, a majority of all commission members is
14 necessary to ratify the commission's recommendations to the
15 legislature.

16 (8) Commission members shall be reimbursed from the
17 appropriation to the office of the legislative council for
18 their travel expenses incurred, as provided for in 2-18-501
19 through 2-18-503, as amended, and \$25 per day while
20 attending meetings of the commission."

21 Section 26. Section 2-16-501, MCA, is amended to read:

22 "2-16-501. Vacancies created. An office becomes vacant
23 on the happening of either any one of the following events
24 before the expiration of the term of the incumbent:

25 (1) the death of the incumbent;

1 ~~(2) his insanity, found upon a commission of lunacy~~
2 ~~issued to determine the fact a determination pursuant to~~
3 ~~Title 53, chapter 21, part 1, that he is seriously mentally~~
4 ~~ill;~~

5 (3) his resignation;

6 (4) his removal from office;

7 (5) his ceasing to be a resident of the state or, if
8 the office be local, of the district, city, county, town, or
9 township for which he was chosen or appointed or within
10 which the duties of his office are required to be
11 discharged;

12 (6) his absence from the state, without the permission
13 of the legislature, beyond the period allowed by law;

14 (7) his ceasing to discharge the duty of his office
15 for the period of 3 consecutive months, except when
16 prevented by sickness or when absent from the state by
17 permission of the legislature;

18 (8) his conviction of a felony or of any offense
19 involving moral turpitude or a violation of his official
20 duties;

21 (9) his refusal or neglect to file his official oath
22 or bond within the time prescribed;

23 (10) the decision of a competent tribunal declaring
24 void his election or appointment."

25 Section 27. Section 2-16-503, MCA, is amended to read:

"2-16-503. Notice of removal. Whenever an officer is removed, declared insane seriously mentally ill, or convicted of a felony or offense involving moral turpitude or a violation of his official duty or whenever his election or appointment is declared void, the body, judge, or officer before whom the proceedings were had must give notice thereof to the officer authorized to fill the vacancy."

Section 28. Section 2-16-513, MCA, is amended to read:

"2-16-513. Succession in case of termination or incapacitation of primary successors. (1) If, because of an enemy attack upon the United States, the governor, lieutenant governor, president pro tempore of the senate, and speaker of the house are killed or rendered unable to serve as governor, ~~the chairman of the board of county commissioners of the state's most populous county as determined by the last preceding official United States census, shall have the power and it shall be his duty forthwith to call an emergency session of the state senate at any safe location within the state for the purpose of electing a president pro tempore who shall then assume the office of governor~~ the senior member of the legislature shall act as governor.

(2) ~~Should such chairman of the board of county commissioners of the most populous county be dead or unable to act, the chairman of the board of the next most populous~~

~~county shall exercise the power granted by this section. He shall call an emergency session of the legislature at a safe location within the state. The legislature meeting in joint session shall elect a governor.~~

(3) For the purposes of this section, the member with seniority is the member who has served in the legislature for the longest continuous period of time up to and including his current term. If two or more members of the legislature have equal seniority, the line of succession among them is from eldest to youngest in age."

Section 29. Section 2-18-405, MCA, is amended to read:

"2-18-405. Payroll based on actual, end-of-period figures -- pay date -- change of payroll periods. (1) By January 1, 1979, all state central payroll systems shall be based upon actual payroll figures submitted after the end of the payroll period and may not be based upon estimated payroll.

(2) All state payroll systems shall provide for the fixing of payroll periods and designated days on which salaried employees shall be paid for the preceding payroll period. ~~Such~~ The pay date shall be uniform for all employees of each state agency employed in the same geographic area and payroll warrants shall be distributed or mailed within 10 business days following the close of the payroll period.

(3) The payroll period of employees of a state agency

1 ~~shall~~ may not be changed by inclusion of the agency into the
 2 state central payroll system or by any revision or
 3 modification of the system unless notice of the proposed
 4 change has been given to each employee who will be affected
 5 by such change in the form and manner prescribed by the
 6 state auditor not less than 60 days prior to the effective
 7 date of the change."

8 Section 30. Section 2-18-601, MCA, is amended to read:
 9 "2-18-601. Definitions. For the purpose of this part,
 10 the following definitions apply:

11 (1) "Agency" means any legally constituted department,
 12 board, or commission of state, county, or city government.

13 (2) "Employee" means any person employed by the state,
 14 county, or city governments except elected state, county,
 15 and city officials and school teachers.

16 (3) "Permanent employee" means an employee who
 17 regularly works for more than 6 months in any 12-month
 18 period.

19 (4) "Part-time employee" means an employee who
 20 normally works less than 40 hours a week.

21 (5) "Full-time employee" means an employee who
 22 normally works 40 hours a week.

23 (6) "Temporary position" means a position created for
 24 a definite period of time but not to exceed 6 months and the
 25 position is not renewable.

1 (7) "Seasonal position" means a position which,
 2 although temporary in nature, regularly occurs from season
 3 to season or from year to year.

4 (8) "Vacation leave" means a leave of absence with pay
 5 for the purpose of rest, relaxation, or personal business at
 6 the request of the employee and with the concurrence of the
 7 employer.

8 (9) "Sick leave" means a leave of absence with pay for
 9 a sickness suffered by an employee or his immediate family.

10 (10) "Transfer" means a change of employment from one
 11 agency to another agency in the same jurisdiction without a
 12 break in service of more than 5 working days.

13 (11) "Continuous employment" means working within the
 14 same jurisdiction without a break in service of more than 5
 15 working days or without a continuous absence without pay of
 16 more than 15 working days.

17 (12) "Break in service" means that period of time an
 18 employee takes to change employment from one agency to
 19 employment in another agency of the same jurisdiction."

20 Section 31. Section 2-18-702, MCA, is amended to read:

21 "2-18-702. Group insurance for public employees and
 22 officers. (1) All departments, bureaus, boards, commissions,
 23 and agencies of the state and all counties, cities, and
 24 towns shall upon approval by two-thirds vote of the officers
 25 and employees of each such department, bureau, board,

1. commission, agency, county, city, and town enter into group
 2. hospitalization, medical, health, including long-term
 3. disability, accident, and/or group life insurance contracts
 4. or plans for the benefit of their officers and employees
 5. and their dependents.

6. (2) ~~The For state officers and employees, the premiums~~
 7. required from time to time to maintain such ~~the~~ insurance in
 8. force shall be paid by the insured officers and employees,
 9. and the auditor shall deduct ~~and the~~ premiums from the
 10. salary or wages of each officer or employee who elects to
 11. become insured, on the officer ~~officer's~~ or employee's
 12. written order, and issue his warrant therefor to the
 13. insurer.

14. (3) For the purpose of ~~[40-3905-1, R.C.M.-1947]~~ ~~this~~
 15. ~~section~~, the plans of health service corporations for
 16. defraying or assuming the cost of professional services of
 17. licentiates in the field of health or the services of
 18. hospitals, clinics, or sanitariums, or both professional and
 19. hospital services, shall be construed as group insurance,
 20. and the dues payable under such plans shall be construed as
 21. premiums therefor."

22. Section 32. Repealer. Sections 2-1-103 and 2-15-202,
 23. MCA, are repealed.

24. Section 33. Repealer. Sections 25-506, 25-509,
 25. 32-2504, 41-1604, 59-517, 59-537, 59-706 through 59-708,

1. 80-2001, 82-1306 through 82-1308, and 82-4324, R.C.M. 1947,
 2. are repealed.

-End-

46th

LEGISLATIVE SESSION

SENATE BILLSCOMMITTEE ON STATE ADMINISTRATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
370	2/5	2/14	2/15	2/15 Statement of Intent					
375	2/6	2/12	2/12	2/12 As Amended					
379	2/6	2/12	2/12	2/12					
385	2/6	2/16	2/17		2/17				
387	2/6	2/16	2/17		2/17				
388	2/6	2/16	2/17		2/17				
390	2/6	2/16	2/17-2/19	2/17-2/19 As Amended Statmt. of Intent 2/21					
391	2/6	2/16	2/17		2/17				
395	2/7	2/14	Taken back 2/9/79						
400	2/7	2/20	Taken back 2/9/79						
403	3/7	2/14-2/15	2/15	2/15 As Amended					
411	2/7	2/16	2/17		2/17				
422	2/9	2/16	2/17	2/17 Statement of Intent 2/21					
443	2/10	2/16							
457	2/12	2/16	2/17		2/17				
458	2/12	2/16	2/17	2/17 Statement of Intent As Amended - 2/21					

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 12, 1979

The twenty-second meeting of the State Administration Committee was called to order by Chairman Story on February 12, 1979 in Room 442 of the State Capitol at 10:00 a.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 375: The Chairman called on the sponsor of the bill to present his testimony. Sen. Graham being absent, had previously arranged for the staff attorney of the Legislative Council to present his testimony. Mr. Jim Lear, attorney for the Legislative Council, representing the Code Commissioner, in going through the bill, addressed the Committee on the proposed changes. Mr. Lear's testimony is attached as Exhibit A.

The bill pertains to military reservations and old forts still under state administration even though they remain federal property for certain purposes, such as service of process. This is needed to delete references under the old Constitution and to bring the law up to current terminology and resolve conflicting statutes. In some instances reference is made to the wrong department because of executive reorganization.

Sen. Hafferman questioned the term "transferred" as used, if it indicated there is no longer any responsibility on the part of the particular department referred to. Mr. Lear advised these duties were merely transferred to a different department for more clear lines of authority and responsibility. Continuing, he explained the Department of Administration would handle any problems arising if the Licensing Department referred to on page 17 were terminated. Proposed amendments were furnished to the Committee members.

Sen. Ryan questioned the age of majority stated as 18, to which Mr. Lear responded that this was in the present Constitution. A great many of the proposed changes relate to terminology in order to clarify current usage, such as "serious mental illness" for "insanity". He further explained the provisions relating to succession to the governorship which went down to the county commissioner of the largest county in the state in cases of incapacity or emergency. Obsolete, redundant and conflicting laws will be corrected by this legislation.

Diana Dowling, Code Commissioner, thanked the Committee for hearing the bill without the sponsor being present and advised that this is the culmination of the 4-year study on code revision. With these housekeeping bills passing this session, there shouldn't be but very few code commissioner bills in the future.

There being no further proponents and no opponents appearing to testify, the hearing was opened for questions from the Committee

Sen. Ryan asked for clarification on the reference to 18 as the age of majority; Mr. Lear answered that this did not conflict with the change of the drinking age laws and merely follows the Constitution.

Sen. Roskie questioned the many references to other statutes by code numbers. Mrs. Dowling explained this was a means of reducing the volume of the codes by using reference to other sections by MCA statute section numbers rather than restating those particular sections, and also, that many of these had to be changed as they made reference to the wrong laws under the old language. Sen. Brown asked what took preference when two laws conflicted, to which Mrs. Dowling answered that the most recent would apply.

Sen. Ryan, referring to page 32, line 17, questioned the "break in service" term. Mr. Lear advised as it pertained to political subdivisions of the state, jurisdiction would also refer to the county level. Explaining further, Mrs. Dowling added that as Cascade County was under the jurisdiction of the state, there would be no break in service for legislative duty.

After further discussion, Senator Jergeson moved that the amendments proposed by the Legislative Council be adopted; motion carried unanimously.

Sen. Ryan moved the bill be amended on page 28, line 2 to delete the word "floor"; motion passed unanimously.

Sen. Jergeson then moved that Senate Bill No. 375 DO PASS AS AMENDED; motion carried unanimously, with the amendments now reading as follows:

1. Page 14, lines 20 through 22.
Following: line 19
Strike: subsection (5) in its entirety
Renumber: subsequent subsections
2. Page 15, lines 24 and 25.
Following: "officers"
Strike: "and furnish such officers with new seals whenever required"
3. Page 23, line 8
Following: "constitution"
Insert: "prescribed by the Montana Constitution"
4. Page 28, line 2.
Following: "majority"
Strike: "floor"

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VICE CHAIRMAN

CHET BLAYLOCK

PAT M. GOODOVER

DIANA S. DOWLING
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ELEANOR ECK
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DIRECTOR LEGAL SERVICES

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DIRECTOR RESEARCH

LC 0042

1979 Legislature
Code Commissioner Bill -- Summary

Senate Bill No. 375

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO
GOVERNMENT STRUCTURE AND ADMINISTRATION.

(This summary does not include discussion of routine form or
grammatical changes.)

Section 1. 2-1-204. Deleted "Fort Assiniboine, Fort
Custer, Fort Keogh, Fort Maginnis...Fort Shaw". No longer
military reservations.

Section 2. 2-1-302. Added "or any other" to correct
grammatical error and clarify.

Section 3. 2-3-113. Added "respectively" to clarify
that 2-4-623(6) describes method of publication, not obtaining
judicial review.

Section 4. 2-4-102. The proposed amendment corrects an
error in an internal reference made during recodification.

Section 5. 2-6-103. In subsection (3), changed deposit
provisions to conform to 17-6-105. Constitution referred to
in deleted language is the Montana Constitution of 1889.

Section 6. 2-6-302. Changed "any committees..." to
"state records committee" because it was the committee
"established by law to regulate the retention of public records..."

Section 7. 2-9-103. In (1) and (2) changed "the state or
of a county, municipality, taxing district, or other political
subdivision of the state" to "a governmental entity". Definition
of governmental entity in 2-9-101 includes all those entities.
Changed "unit" to "entity" for consistency.

Section 8. 2-9-306. Changed "this act" to "parts 1 through
3 of this chapter". Provision was thought to apply to section in
parts 1 through 3 but because some sections were included in
parts 1 through 3 that were not in the original act, the change is
made by amendment rather than recodification. The reference is
a general one and is not changed in meaning by the amendment.

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parts 1 through 3 that were not in the original act, the change is
made by amendment rather than recodification. The reference is
a general one and is not changed in meaning by the amendment.

25

Section 9. 2-9-514. Added "given pursuant to 2-9-513(2)" to clarify which "additional bond".

Section 10. 2-15-201. Annual reports of state agencies, their publication, and the governor's report to the legislature are provided for in 2-7-102. Amendment conforms duty to that section.

Section 11. 2-15-401. Deleted subsections (9) and (10) as obsolete. Subsection (10) is function of department of administration. Changed subsection (12) to conform to 2-7-102 dealing with annual reports of state agencies. Part of subsection (2) and subsection (17) require recordkeeping that was done by secretary of state but was tasked by statute to governor.

Section 12. 2-15-412. Clarifies that the transfer is for administrative purposes only. A board, bureau, commission or agency may not remain unallocated, unless temporary. See Sec. 7, Art. VI, Montana Constitution, and Title 2, chapter 15, part 1, MCA. The board remains independent so far as performance of its functions is concerned. If the legislature feels that the board allocated to a department should retain the authority to hire its own personnel, add the following language. "The [board] may hire its own personnel, and subsection (2)(d) of 2-15-121 does not apply."

Section 13. 2-15-413. Same as section 12. The functions performed by the board are most closely akin to those of secretary of state so the board was allocated to that office.

Section 14. 2-15-1111. Same as section 12.

Section 15. 2-15-1605. In subsection (2) changed "senate" to "legislature". In (4) added "of" -- grammar.

Section 16. 2-15-1614. Same as section 12.

Section 17. 2-15-1615. Clarify to which association reference is made. See Title 37, chapter 15.

Section 18. 2-15-1631. Same as section 12.

Section 19. 2-15-1656. Changed "over the age of majority" to "18 years of age or older" to clarify. Same as section 12.

Section 20. 2-15-1701. Deleted reference to constitution because oath is no longer prescribed by constitution.

Section 21. 2-15-2004. Sec 9, Ch. 530, L. 1977 provides that upon termination of the board of forensic science on June 30, 1979, the attorney general is authorized to employ personnel for the division.

Section 22. 2-15-2006. Standardized language creating board. Changed "transferred" to "allocated". The transfer is complete. Allocation is the preferred term to describe the continuing legal relationship.

Section 23. 2-15-3003. Changed "transferred" to "allocated as prescribed in 2-15-121". Allocation is preferred term to describe the continuing legal relationship.

Section 24. 2-15-3305. Same as section 12.

Section 25. 2-16-401. Changed "presiding officer" to "majority leader" in (1)(a)(iii) to correct obvious error.

Section 26. 2-16-501. "Insanity" is not defined in MCA nor was it defined in RCM. In order to bring consistency to the use of terms involving mental disorders, undefined terms are being replaced by defined terms.

Section 27. 2-16-503. Same as section 25.

Section 28. 2-16-513. Sections 82-1309 and 82-3802, RCM, codified as 10-3-602, MCA, conflict, therefore a composite must be drafted. The section more recently enacted (82-3802, RCM 1947,) provided for extending the line of succession. As drafted the line of succession would be extended to determine the acting governor, who in turn would call a special session for the purpose of electing a governor. The section as drafted is more consistent with the other succession statutes, namely 2-16-512, which provides for electing a successor as did 82-1309. At the same time, the section provides an acting governor, which 82-3802 did.

Section 29. 2-18-405. Deleted "central". Use of "all" suggests "central" was to have been deleted in S.B. 104, 1977 Legislative Session when "The uniform" was stricken. Introduced bill read "The uniform state central payroll system". The reference bill read "~~The uniform~~ BY JANUARY 1, 1979, ALL state central payroll ~~system~~ SYSTEMS..."

Section 30. 2-18-601. Section 59-1007, RCM 1947 excepted elected state, county, and city officials, and school teachers from the provisions on leave time. Section 59-1007, RCM 1947 is to be repealed by this bill and the exception it provides is amended into this definition.

Section 31. 2-18-702. In (2), added "For state officers and employees' because auditor refers to state auditor and he may only deduct from checks of state employees." Originally, that was clear. By combining two RCM sections, clarification was made necessary. Changed "40-3905.1, RCM 1947" to "this section". Technically subsection (3) does not apply to insurance and premiums for employees of political subdivisions. In practice though employees of political subdivisions do subscribe to Blue Cross and Blue Shield and whether it is an insurance contract or health plan for purposes of this section is a distinction without a difference.

Section 32. Repealer. 2-1-103. This is an 1895 statute adopted from the California code and is quite archaic. Each subsection is a general statement of a procedure or right otherwise provided for more specifically, hence the section is also redundant.

2-15-202. This section is also an 1895 statute adopted from California laws, which has never been amended. Subsections (1) and (3) are functions the secretary of state essentially performs now. Subsection (2) is redundant with provisions on uniform accounting, Title 17, chapters 1 and 2.

Section 33. Repealer. 25-506. Compensation for officers and employees not provided for in 2-16-405 is provided for in Title 2, chapter 18. This section conflicts and is obsolete.

25-509. Quarterly salaries are no longer provided for by the constitution. Section is obsolete.

32-2504. Board of highway appeals was abolished. Section is otherwise redundant with 2-18-1001.

41-1604. This section is obsolete in light of executive reorganization (see 2-15-104 and 2-15-112).

59-517. Uniform accounting system provided for in Title 17, chapters 1 and 2 makes section obsolete.

59-537. Obsolete. Terms no longer used in travel, meals, and lodging reimbursement laws.

59-706 through 59-708. Semiannual property reports are no longer filed. Each agency accounts for its own personal property. Under 2-17-202 the department of administration may request a property inventory. These sections are obsolete (according to letter from secretary of state, March, 1976).

80-2001. Bureau of criminal investigation has been transferred to department of justice. Section conflicts.

82-1306. Governor's residence has been built. Section obsolete.

82-1307, 82-1308. Governor's personal staff is indirectly provided for in 2-18-104. Section obsolete.

82-4324. Provision concerning punitive damages is redundant with 2-9-105. Provision concerning interest conflicts with 2-9-317. Provision concerning attorney's fees conflicts with 2-9-314.

2-12-78

from Note
Lemon.

Amendments to Senate Bill 375

1. Page 14, lines 20 through 22.

Following: line 19

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

2. Page 15, lines 24 and 25.

Following: "officers"

Strike: "and furnish such officers with new seals whenever required"

3. Page 23, line 8.

Following: "constitution"

Insert: "prescribed by the Montana Constitution"

4. Page 28, line 2.

Following: "majority"

Strike: "floor"

- from Nat Rogers

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Feb. 12, 1979 SENATE Bill No. 375 Time _____

(2) - amend

(2) - amend

(2) DO PASS as Amended

NAME	YES	NO
Senator Pete Story, Chairman		
Senator George F. Roskie, V. Chairman		
Senator Bob Brown		
Senator A. T. (Tom) Rasmussen		
Senator Patrick L. Ryan <i>(C)</i>		
Senator Greg Jergeson <i>(C)</i>		
Senator William F. Hafferman		

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Greg Jergeson moved that the amendments proposed by the Legislative Council be adopted (see attached copy of amendments for Senate Bill No. 375; motion carried unanimously.

Senator Pat Ryan moved that SB 375 be amended as follows: on page 28, line 2, following "majority", strike "floor"; motion carried unanimously.

Senator Jergeson then moved that Senate Bill 375 DO PASS AS AMENDED; motion passed without opposition.

(include enough information on motion--put with yellow copy of committee report.)

DATE FEBRUARY 13, 1979

COMMITTEE ON

SENATE STATE ADMINISTRATION

SENATE BILL NO. 375 & 379
VISITORS'

VISITORS' REGISTER

[illegible]

STANDING COMMITTEE REPORT

February 12

79

19

MR. President

We, your committee on State Administration

having had under consideration Senate Bill No. 375

Respectfully report as follows: That Senate Bill No. 375,
introduced bill, be amended as follows:

1. Page 14, lines 20 through 22.

Following: line 19

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

2. Page 15, lines 24 and 25.

Following: "officers"

Strike: "and furnish such officers with new seals whenever
required"

3. Page 23, line 8.

Following: "constitution"

Insert: "prescribed by the Montana Constitution"

4. Page 28, line 2.

Following: "majority"

Strike: "floor"

And, as so amended

DO PASS.

OC.

Amendments to Senate Bill 375

1. Page 14, lines 20 through 22.

Following: line 19

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

2. Page 15, lines 24 and 25.

Following: "officers"

Strike: "and furnish such officers with new seals whenever required"

3. Page 23, line 8.

Following: "constitution"

Insert: "prescribed by the Montana Constitution"

46 Legislature

Page 5

HOUSE STATE ADMINISTRATION COMMITTEE - SENATE BILLS

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 199	revising requirements for eligibility for disability retirement in Mt. Judges' retirement system & clarifying procedure for determining such eligibility	2/17/79	Turnage	3-7-79	Not Be Concurred In	3-8
SB 213	authorizing reproduction of records kept by sec. of state pursuant to 2-6-111, MCA; reoviding for disposal of original records; for identification, indexing, and safekeeping of reproduced records; & for admissibility as evidence of the reproduced copies	2/17/79	Blaylock	3-2-79	Be Concurred In	3-2
SB 379	deleting references to divisions within the legislative council	2/19/79	Graham	3-5-79	Be Concurred In	3-5
SB 287	to reduce govt. paperwork by requiring st. agenices to review forms required of citizens & report progress to a temporary interim comm. on govt paperwork created for this purpose	2/19/79	Towe, Goodover, et all	3-5-79	Be Concurred In	3-5
SB 156	revise/clarify procedure employers in PERS must follow in providing monthly reports & deposits of contributions to system; providing penalty for late deposits	2/20/79	Story	3-5-79	Be Concurred In	3-8
SB 375	rev/clarify laws relative to govt. structure & admin.	2/20/79	Graham	3-5-79	Be Concurred In	3-5

SENATE BILL NO. 375

INTRODUCED BY GRAHAM

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO GOVERNMENT STRUCTURE AND ADMINISTRATION; REPEALING SECTIONS 2-1-103 AND 2-15-202, MCA, AND SECTIONS 25-506, 25-509, 32-2504, 41-1604, 59-517, 59-537, 59-706 THROUGH 59-708, 80-2001, 82-1306 THROUGH 82-1308, AND 82-4324, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-1-204, MCA, is amended to read:

"2-1-204. Military reservations -- service of process.

(1) Authority is granted to and acknowledged in the United States to exercise exclusive legislation as provided by the constitution of the United States over the military reservations reservation of Fort-Assiniboine--Fort--Eastern Fort--Keogh--Fort-Maginnis, Fort Missoula--and-Fort-Shaw as now established by law to the same extent and with the same effect as if ~~said--reservations~~ the reservation had been purchased by the United States by consent of the legislative assembly of the state of Montana so long as ~~said--pieces~~ remain it remains a military reservations reservation.

(2) All legal process of the state, both civil and

criminal, may be served upon persons and property found within ~~any-of-said-reservations~~ the reservation in all cases where the United States ~~has--not~~ does not have exclusive jurisdiction."

Section 2. Section 2-1-302, MCA, is amended to read:

"2-1-302. Resolution of Indian tribes requesting state jurisdiction -- governor's proclamation -- consent of county commissioners. (1) Whenever the governor of this state ~~shall~~ receive receives from the tribal council or other governing body of the Confederated Salish and Kootenai Indian tribes or any other community, band, or group of Indians in this state, a resolution expressing its desire that its people and lands be subject to the criminal ~~and/or~~ civil jurisdiction or both of the state of ~~Montana~~ to the extent authorized by federal law and regulation, he shall issue within 60 days a proclamation to the effect that such jurisdiction ~~shall apply~~ applies to those Indians and their territory or reservation in accordance with the provisions of this part.

(2) He ~~shall~~ the governor may not issue such ~~the~~ proclamation until such ~~the~~ resolution has been approved in the manner provided for by the charter, constitution, or other fundamental law of the tribe or tribes, if said document provides for such approval, and there has been first obtained the consent of the board of county

34

1 commissioners of each county which encompasses any portion
2 of the reservation of such tribe or tribes."

3 Section 3. Section 2-3-113, MCA, is amended to read:

4 "2-3-113. Declaratory rulings to be published. The
5 declaratory rulings of any board, bureau, commission,
6 department, authority, agency, or officer of the state which
7 is not subject to the Montana Administrative Procedure Act
8 shall be published and be subject to judicial review as
9 provided under 2-4-623(6) and 2-4-501, respectively."

10 Section 4. Section 2-4-102, MCA, is amended to read:

11 "2-4-102. Definitions. For purposes of this chapter,
12 the following definitions apply:

13 (1) "Administrative code committee" or "committee"
14 means the committee provided for in Title 5, chapter ~~10~~
15 ~~part-3 14~~.

16 (2) "Agency" means any agency, as defined in 2-3-102,
17 of the state government, except that the provisions of this
18 chapter do not apply to the following:

19 (a) the state board of pardons, except that the board
20 shall be subject to the requirements of 2-4-103, 2-4-201,
21 2-4-202, and 2-4-306 and its rules shall be published in the
22 administrative rules of Montana and Montana administrative
23 register;

24 (b) the supervision and administration of any penal
25 institution with regard to the institutional supervision,

1 custody, control, care, or treatment of youths or prisoners;

2 (c) the board of regents and the Montana university
3 system;

4 (d) the financing, construction, and maintenance of
5 public works.

6 (3) "ARM" means the administrative rules of Montana.

7 (4) "Contested case" means any proceeding before an
8 agency in which a determination of legal rights, duties, or
9 privileges of a party is required by law to be made after an
10 opportunity for hearing. The term includes but is not
11 restricted to ~~rate--making~~ ratemaking, price fixing, and
12 licensing.

13 (5) "License" includes the whole or part of any agency
14 permit, certificate, approval, registration, charter, or
15 other form of permission required by law but does not
16 include a license required solely for revenue purposes.

17 (6) "Licensing" includes any agency process respecting
18 the grant, denial, renewal, revocation, susoensio ,
19 annulment, withdrawal, limitation, transfer, or amendment of
20 a license.

21 (7) "Party" means any person or agency named or
22 admitted as a party or properly seeking and entitled as of
23 right to be admitted as a party, but nothing herein shall be
24 construed to prevent an agency from admitting any person or
25 agency as a party for limited purposes.

1 (8) "Person" means any individual, partnership,
2 corporation, association, governmental subdivision, or
3 public organization of any character other than an agency.

4 (9) "Register" means the Montana administrative
5 register.

6 (10) "Rule" means each agency regulation, standard, or
7 statement of general applicability that implements,
8 interprets, or prescribes law or policy or describes the
9 organization, procedures, or practice requirements of an
10 agency. The term includes the amendment or repeal of a prior
11 rule but does not include:

12 (a) statements concerning only the internal management
13 of an agency and not affecting private rights or procedures
14 available to the public;

15 (b) declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of such
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually relating to
21 hunting, fishing, and trapping when there is a statutory
22 requirement for the publication of such rules and rules
23 adopted annually relating to the seasonal recreational use
24 of lands and waters owned or controlled by the state when
25 the substance of such rules is indicated to the public by

1 means of signs or signals;

2 (e) rules implementing the state personnel
3 classification plan, the state wage and salary plan, or the
4 statewide budgeting and accounting system;

5 (f) uniform rules adopted pursuant to interstate
6 compact, except that such rules shall be filed in accordance
7 with 2-4-306 and shall be published in the administrative
8 rules of Montana.

9 (11) "Substantive rules" are either:

10 (a) legislative rules, which if adopted in accordance
11 with this chapter and under expressly delegated authority
12 have the force of law and when not so adopted are invalid;
13 or

14 (b) adjective or interpretive rules, which may be
15 adopted in accordance with this part and under express or
16 implied authority to codify an interpretation of a statute
17 although such interpretation lacks the force of law."

18 Section 5. Section 2-6-103, MCA, is amended to read:

19 "2-6-103. Filing and copying fees. (1) The secretary
20 of state, for services performed in his office, must ~~shall~~
21 charge and collect the following fees:

22 (a) for each copy of any law, resolution, record, or
23 other document or paper on file in his office, except
24 corporate papers, 40 cents per folio or, if the copy is made
25 by any process of reproduction by photographic, photostatic,

1 or similar process, the fee shall be 50 cents per page or
2 fraction thereof;

3 (b) for affixing certificate and seal, \$2;

4 (c) for receiving and recording each official bond,
5 \$10;

6 (d) for each commission or other document signed by
7 the governor and attested by the secretary of state (pardon,
8 military commissions, and extraditions excepted), \$5;

9 (e) for filing each trademark, \$5;

10 (f) for filing and recording each assignment of a
11 trademark, \$5;

12 (g) for issuing each certificate of record, \$5;

13 (h) for filing and recording miscellaneous papers,
14 records, or other documents, \$5;

15 (i) for filing and recording any other paper not
16 otherwise herein provided for, \$5;

17 (j) for filing and recording any paper, record, or
18 other document or other than a standard form when
19 recommended by the secretary of state, \$5;

20 (k) when a copy of any law, resolution, record, or
21 other document or paper on file in the office of the
22 secretary of state is presented for comparison and
23 certification, 10 cents per folio must be charged and
24 collected for proofreading the same.

25 (2) No member of the legislature or state or county

1 officer can ~~may~~ be charged for any search relative to
2 matters appertaining to the duties of his office or be
3 charged--any--fee for a certified copy of any law or
4 resolution passed by the legislature relative to his
5 official duties.

6 (3) Fees ~~must~~ shall be collected in advance and when
7 collected by the secretary of state ~~must~~ shall be paid--to
8 the--state-treasurer-at-the-end-of-each-quarter--as-provided
9 in-the-constitution deposited pursuant to 17-6-105."

10 Section 6. Section 2-6-302, MCA, is amended to read:

11 "2-6-302. Official records management -- powers and
12 duties. In order to insure the proper management and
13 safeguarding of official records, the Montana historical
14 society shall:

15 (1) establish and operate the state archives as
16 authorized by appropriation for the purpose of storing and
17 servicing official records transferred to the custody of the
18 state archives;

19 (2) in cooperation with the department of
20 administration and ~~any-committee-or-council-established-by~~
21 ~~law-to-regulate-the-retention-of-public-records,~~ the state
22 records committee provided for in 2-15-1013 establish
23 guidelines for the inventorying, cataloging, retention, and
24 transfer of all official records;

25 (3) maintain and enforce restrictions on access to

official records in the custody of the state archives in accordance with the provisions of this part;

(4) provide adequate housing and care of official records in the custody of the state archives to insure their proper preservation and use by the public;

(5) in accordance with the guidelines established pursuant to subsection (2), remove and destroy duplicate official records and official records of insignificant historical value from the records deposited in the state archives."

Section 7. Section 2-9-103, MCA, is amended to read:

"2-9-103. Actions under invalid law or rule -- same as if valid -- when. (1) If an officer, agent, or employee of ~~the state or of a county, municipality, taxing district, or other political subdivision of the state~~ a governmental entity acts in good faith, without malice or corruption, and under the authority of law and that law is subsequently declared invalid as in conflict with the constitution of Montana or the constitution of the United States, neither he nor any other officer or employee of the governmental entity he represents nor the governmental entity he represents is civilly liable in any action in which he, such other officer, or such governmental entity would not have been liable had the law been valid.

(2) If an officer, agent, or employee of the state or

~~of a county, municipality, taxing district, or other political subdivision of the state~~ a governmental entity acts in good faith, without malice or corruption, and under the authority of a duly promulgated rule or ordinance and that rule or ordinance is subsequently declared invalid, neither he nor any other officer, agent, or employee of the governmental ~~unit~~ entity he represents nor the governmental entity he represents is civilly liable in any action in which no liability would attach had the rule or ordinance been valid."

Section 8. Section 2-9-306, MCA, is amended to read:

"2-9-306. Construction of policy conditions -- customary exclusions. Any insurance policy, rider, or endorsement issued and purchased after July 1, 1973, to insure against any risk which may arise as a result of the application of ~~[this act]~~ parts 1 through 3 of this chapter which contains any condition or provision not in compliance with the requirements of ~~[this act]~~ parts 1 through 3 shall not be rendered invalid thereby but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider, or endorsement been in full compliance with ~~[this act]~~ parts 1 through 3, provided the policy is otherwise valid. This section ~~shall~~ may not be construed to prohibit any such insurance policy, rider, or endorsements from containing standard and

1 customary exclusions of coverages which ~~that~~ the department
2 of administration ~~deems--to--be~~ considers reasonable and
3 prudent upon considering the availability and the cost of
4 such insurance coverages."

5 Section 9. Section 2-9-514, MCA, is amended to read:

6 "2-9-514. Additional security. (1) The additional bond
7 given pursuant to 2-9-513(2) must be in such penalty as
8 directed by the court, judge, board, officer, or other
9 person and in all other respects similar to the original
10 bond and approved by and filed with the same officer as
11 required in case of the approval and filing of the original
12 bond.

13 (2) Every such additional bond so filed and approved
14 is of like force and obligation upon the principal and
15 sureties therein, from the time of its execution, and
16 subjects the officer and his sureties to the same
17 liabilities, suits, and actions as are prescribed respecting
18 the original bonds of officers.

19 (3) In no case is the original bond discharged or
20 affected when an additional bond has been given, but the
21 same remains of like force and obligation as if such
22 additional bond had not been given."

23 Section 10. Section 2-15-201, MCA, is amended to read:

24 "2-15-201. Powers and duties of governor. In addition
25 to those ~~the duties~~ prescribed by the constitution, the

1 governor ~~has the power and must~~ shall perform the following
2 duties:

3 (1) He ~~is to~~ shall supervise the official conduct of
4 all executive and ministerial officers.

5 (2) He ~~is to~~ shall see that all offices are filled and
6 the duties thereof performed or, in default thereof, apply
7 such remedy as the law allows. If the remedy is imperfect,
8 he ~~is to~~ shall acquaint the legislature therewith at its
9 next session.

10 (3) He ~~is to~~ shall make the appointments and supply
11 the vacancies as required by law.

12 (4) He is the sole official organ of communication
13 between the government of this state and the government of
14 any other state or of the United States.

15 (5) Whenever any suit or legal proceeding is pending
16 against this state or which may affect the title of this
17 state to any property or which may result in any claim
18 against the state, he may direct the attorney general
19 appear on behalf of the state and may employ such additional
20 counsel as he may judge expedient.

21 (6) He may require the attorney general or county
22 attorney of any county to inquire into the affairs or
23 management of any corporation existing under the laws of
24 this state.

25 (7) He may require the attorney general to aid the

county attorney in the discharge of his duties.

(8) He may offer rewards not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

(9) He ~~must~~ shall perform such duties respecting fugitives from justice as are prescribed by Title 46, chapter 30.

(10) He ~~must~~ shall issue and transmit election proclamations, as prescribed by 13-11-101.

(11) He ~~must~~ shall issue land warrants and patents, as prescribed in 77-2-342.

(12) He ~~must, on or before the second Monday of November in the year 1892 and in each second year thereafter, deliver to the secretary of state for publication and shall prepare a biennial report of officers and boards for the two preceding years report pursuant to 2-7-102.~~

(13) He may require any officer or board to make special reports to him, upon demand, in writing.

(14) He ~~must~~ shall discharge the duties of member of the board of examiners, of nonvoting ex officio member of the state board of education, and of member of the board of land commissioners.

(15) He has ~~such~~ the other powers and must perform ~~such~~ the other duties as are devolved upon him by this code or any other law of this state."

Section 11. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions thereof and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with his attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;

~~(5) receive and record in proper books the official bonds of all the state officers and then deliver the originals to the state treasurer~~

~~(6)~~ (5) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;

42

1 ~~(7)(6)~~ certify to the governor the names of those
2 persons who have received at any election the highest number
3 of votes for any office, the incumbent of which is
4 commissioned by the governor;

5 ~~(8)(7)~~ furnish, on demand, to any person paying the
6 fees therefor, a certified copy of all or any part of any
7 law, record, or other instrument filed, deposited, or
8 recorded in his office;

9 ~~(9)~~ notify in writing the county attorney of the
10 proper county of the failure of any officer in his county to
11 file in his office the sworn statement of fees received by
12 such officer;

13 ~~(10)~~ present to the legislature at the commencement of
14 each session thereof a full account of all purchases made
15 and expenses incurred in furnishing fuel, lights, and
16 stationery;

17 ~~(11)(9)(8)~~ keep a fee book in which must be entered
18 all fees, commissions, and compensation of whatever nature
19 or kind by him earned, collected, or charged, with the date,
20 name of payer, paid or unpaid, and the nature of the service
21 in each case, which book must be verified annually by his
22 affidavit entered therein;

23 ~~(12)(10)(9)~~ file in his office descriptions of seals
24 in use by the different state officers and furnish such
25 officers with new seals whenever required;

1 ~~(13)(11)(10)~~ discharge the duties of member of the
2 board of examiners and of the board of land commissioners
3 and all other duties required of him by law;

4 ~~(14)(12)(11)~~ report to the governor at the time as
5 prescribed in 2-7-102, a detailed account of all official
6 actions since his previous reports, accompanying the report
7 with a detailed statement, under oath, of the manner in
8 which all appropriations for his office have been expended;

9 ~~(15)(13)(12)~~ receive, designate, and record trademarks
10 as provided in 30-13-103;

11 ~~(16)(14)(13)~~ distribute the bound volumes of the
12 decisions of the supreme court in the manner provided by
13 3-2-604;

14 ~~(17)(15)(14)~~ report annually to the legislative
15 services division of the legislative council all changes of
16 names received pursuant to 27-31-205 for publication in the
17 session laws;

18 ~~(18)(16)(15)~~ report annually to the legislative
19 services division of the legislative council all watercourse
20 name changes received pursuant to 85-2-134 for publication
21 in the session laws.

22 ~~(17)(16)~~ keep a register of all applications for pardon
23 or for commutation of any sentence, with a list of the
24 official signatures and recommendations in favor of each
25 application."

Section 12. Section 2-15-412, MCA, is amended to read:

"2-15-412. Board of state canvassers. The board of state canvassers created in 13-15-502 is transferred allocated to the office of the secretary of state for administrative purposes only as prescribed in 2-15-121."

Section 13. Section 2-15-413, MCA, is amended to read:

"2-15-413. Board of election devices. There is a board of election devices as provided in ~~13-10-101 13-10-105~~. ~~The board is allocated to the office of the secretary of state for administrative purposes only as prescribed in 2-15-121.~~"

Section 14. Section 2-15-1111, MCA, is amended to read:

"2-15-1111. Office of state coordinator of Indian affairs. (1) ~~There is an~~ office of the state coordinator of Indian affairs ~~is hereby created. The office is allocated to the department of community affairs for administrative purposes only as prescribed in 2-15-121.~~

(2) The coordinator shall be appointed by the governor from a list of five qualified Indian applicants agreed upon by the tribal councils of the respective Indian tribes of the state and shall serve at the pleasure of the governor."

Section 15. Section 2-15-1605, MCA, is amended to read:

"2-15-1605. Board of medical examiners. (1) There is a Montana state board of medical examiners.

(2) The board consists of seven members appointed by the governor with the consent of the senate. Appointments made when the senate legislature is not in session may be confirmed at the next senate session.

(3) The members are:

(a) six members having the degree of doctor of medicine; and

(b) one member having the degree of doctor of osteopathy.

(4) The members having the degree of doctor of medicine may not be from the same county. Each member shall be a citizen of the United States. Each member shall have been licensed and shall have practiced medicine in this state for at least 5 years and shall have been a resident of this state for at least 5 years; however, the 5-year requirement of practice and residency shall be waived for the initial term of appointment of the member having the degree and license of doctor of osteopathy.

(5) Each member shall serve for a term of 7 years. A term commences on September 1 of each year of appointment. A member may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 16. Section 2-15-1614, MCA, is amended to read:

"2-15-1614. Board of radiologic technologists. (1) There is a board of radiologic technologists.

(2) The board consists of seven members appointed by the governor:

(a) two members shall be radiologists licensed to practice medicine in Montana;

(b) one member shall be a physician licensed to practice medicine in Montana;

(c) one member shall be a chiropractor licensed to practice in Montana; and

(d) three members shall be radiologic technologists registered with the American registry of radiologic technologists (ARRT) who, with the exception of the first appointed members, are licensed radiologic technologists.

(3) Vacancies in unexpired terms shall be filled for the remainder of the term.

(4) Each member shall serve for a term of 3 years.

~~(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~"

Section 17. Section 2-15-1615, MCA, is amended to read:

"2-15-1615. Board of speech pathologists and audiologists. (1) There is a board of speech pathologists

and audiologists.

(2) The board consists of five members, four of whom shall:

(a) be appointed by the governor from names submitted to him by the Montana speech and hearing association;

(b) have been residents of this state for at least 1 year immediately preceding their appointment; and

(c) have been engaged in rendering services to the public, teachings, or performing research in the field of speech pathology or audiology for at least 5 years immediately preceding their appointment.

(3) At least two members of the board shall be speech pathologists and at least two shall be audiologists, with the remaining member to be a public member who is a consumer of speech pathology or audiology services and who is not a licensee of the board or of any other board within the department. All board members, except the public member, shall at all times be validly licensed in speech pathology or audiology.

(4) Not less than 60 days before the end of each calendar year, the association shall recommend at least three and not more than five persons for each vacancy occurring at the end of the calendar year. In the event of a vacancy for an unexpired term, the association shall expeditiously recommend at least two and not more than three

persons to fill the vacancy and the governor shall appoint one of those persons to fill the unexpired term.

(5) Appointments shall be for 3-year terms with no person eligible to serve more than two full consecutive terms. Terms begin on the first day of the calendar year and end on the last day of the calendar year.

~~(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~

Section 18. Section 2-15-1631, MCA, is amended to read:

"2-15-1631. Board of sanitarians. (1) There is a board of sanitarians.

(2) The board shall consist of three members appointed by the governor. Each member shall be a resident of this state and a registered sanitarian. Each member shall have a minimum of 3 years of experience practicing as a sanitarian in the state of Montana.

(3) Members shall serve for 3-year terms. One term shall expire on July 1 of each year.

~~(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~

Section 19. Section 2-15-1656, MCA, is amended to read:

"2-15-1656. Board of warm air heating, ventilation, and air conditioning. (1) There is a state board of warm

air heating, ventilation, and air conditioning.

(2) The board consists of seven members appointed by the governor. The members are:

(a) two master and two journeyman mechanics, who shall be over-the-age-of-majority 18 years of age or older and residents of Montana for at least 1 year. Each mechanic shall have been licensed pursuant to Title 37, chapter 70, at least 2 years immediately preceding his appointment.

(b) one representative of the department of administration responsible for the administration of parts 1 through 4 of Title 50, chapter 60, who shall act as secretary;

(c) one attorney from the department; and

(d) one representative of the fire marshal bureau.

(3) Each member shall serve for a period of 4 years.

~~(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~

Section 20. Section 2-15-1701, MCA, is amended to read:

"2-15-1701. Department of labor and industry -- head.

(1) There is a department of labor and industry. As prescribed in Article XII, section 2, of the Montana constitution, the department head is the commissioner of labor and industry.

(2) He shall be appointed by the governor, subject to

44

1 the confirmation of the senate. The term of office of the
2 commissioner shall be 4 years and until his successor is
3 appointed and qualified.

4 (3) The commissioner shall receive an annual salary in
5 such amount as may be specified by the legislature in the
6 appropriation to the department of labor and industry.

7 (4) Before entering on the duties of his office, he
8 must take and subscribe to the oath of office prescribed by
9 the Montana constitution PRESCRIBED BY THE MONTANA
10 CONSTITUTION."

11 Section 21. Section 2-15-2004, MCA, is amended to
12 read:

13 "2-15-2004. Division of forensic science -- head. (1)
14 There is a division of forensic science in the department of
15 justice.

16 (2) The division head is an administrator whose title
17 is state medical examiner and who shall be appointed by the
18 board of forensic science director of the department. He
19 shall be a forensic pathologist qualified or certified by
20 the American board of pathology."

21 Section 22. Section 2-15-2006, MCA, is amended to
22 read:

23 "2-15-2006. Board of crime control -- composition --
24 allocation. (1) ~~The administratively-created agency known as~~
25 ~~the governor's crime control commission is hereby created by~~

1 ~~law--as--the~~ There is a board of crime control ~~and its~~
2 ~~functions are continued.~~

3 (2) The board is transferred allocated to the
4 department for administrative purposes only as prescribed in
5 2-15-121. However, the board may hire its own personnel, and
6 2-15-121(2)(d) does not apply.

7 (3) The board is composed of 18 members appointed by
8 the governor in accordance with 2-15-124 ~~Members are to be~~
9 ~~appointed in accordance with~~ and any special requirements of
10 Title I of the Omnibus Crime Control and Safe Streets Act,
11 as amended. The board shall be representative of state and
12 local law enforcement and criminal justice agencies,
13 including agencies directly related to the prevention and
14 control of juvenile delinquency, units of general local
15 government, and public agencies maintaining programs to
16 reduce and control crime and shall include representatives
17 of citizens and professional and community organizations,
18 including organizations directly related to delinquency
19 prevention."

20 Section 23. Section 2-15-3003, MCA, is amended to
21 read:

22 "2-15-3003. Board of hail insurance. (1) There is a
23 board of hail insurance of five members consisting of the
24 state auditor, the director of agriculture, who is secretary
25 of the board, and three other members to be appointed by the

1 governor from names submitted by farmer organizations having
2 a general membership throughout the state.

3 (2) The governor shall designate one of the appointive
4 members to act as chairman of the board.

5 (3) Whenever the term of any member expires, either by
6 death, resignation, removal for cause, or expiration of his
7 term of office, the governor shall appoint his successor and
8 shall also appoint one of the board for chairman in case of
9 a vacancy in that office.

10 (4) Each appointive member of the board shall be
11 appointed for 3 years, except where ~~when~~ such appointment is
12 made to fill a vacancy on the board, in which event such
13 appointee shall fill out the unexpired term of the member
14 whose place he fills.

15 (5) All members of the board shall be subject to
16 removal for cause by the governor.

17 (6) The board is transferred ~~allocated~~ to the
18 department of agriculture for administrative purposes only
19 as prescribed in 2-15-121."

20 Section 24. Section 2-15-3305, MCA, is amended to
21 read:

22 "2-15-3305. Rangeland resources committee. (1) The
23 governor may select a committee in accordance with
24 subsection (2) which is composed as follows:

25 (a) a chairman who is a rancher;

1 (b) a vice-chairman who is a rancher;

2 (c) a rancher from the eastern area of the state;

3 (d) a rancher from the northern area of the state;

4 (e) a rancher from the area of the state west of the
5 continental divide;

6 (f) a rancher from the southern area of the state;

7 (g) a representative from each of the following
8 agencies:

9 (i) Soil conservation service;

10 (ii) United States forest service;

11 (iii) Montana state university;

12 (iv) Farmers home administration;

13 (v) Montana stockgrowers association;

14 (vi) Office of economic development division;

15 (vii) School of forestry of the university of Montana;

16 (viii) Department of fish and game;

17 (ix) Bureau of land management;

18 (x) Montana wool growers association;

19 (xi) Department of natural resources and conservation;

20 (xii) Bureau of Indian affairs;

21 (xiii) Montana cattlemen's association;

22 (xiv) Department of state lands;

23 (xv) Society for range management;

24 (xvi) United States fish and wildlife service;

25 (xvii) United States agricultural and stabilization

48

1 service.

2 (2) (a) The governor shall select the members
3 described in subsections (1)(a) through (1)(f) from a list
4 submitted by the executive committee of the association of
5 conservation districts and the board of directors of the
6 Montana association of state grazing districts.

7 (b) The governor shall select the members described in
8 subsection (1)(g) from a list submitted by their respective
9 agencies and/or organizations.

10 (3) The committee members shall serve without
11 compensation.

12 (4) All persons appointed to the committee shall serve
13 at the pleasure of the governor.

14 ~~(5) The committee is allocated to the department for~~
15 ~~administrative purposes only as prescribed in 2-15-121.~~

16 Section 25. Section 2-16-401, MCA, is amended to read:

17 "2-16-401. Salary commission meetings. (1) (a) There
18 is created a Montana salary commission. The commission is
19 composed of eight members, none of whom may be public
20 officers, either elected or appointed. The commission shall
21 be appointed in the following manner and in the following
22 chronological order:

23 (i) First, the governor shall appoint one member from
24 each of the two major political parties, equally divided
25 between the United States congressional districts.

1 (ii) Next, the supreme court shall appoint one member
2 from each of the two major political parties, equally
3 divided between the United States congressional districts.

4 (iii) Next, the majority floor leader of the senate
5 shall appoint one member from his political party. The
6 minority leader of the senate shall then appoint one member
7 from his political party not from the same United States
8 congressional district as the member appointed by the
9 presiding-officer majority leader.

10 (iv) Next, the presiding speaker of the house of
11 representatives shall appoint one member from his political
12 party. Lastly, the minority leader in the house of
13 representatives shall appoint one member from his political
14 party not from the same United States congressional district
15 as the member appointed by the speaker.

16 (b) All appointments shall be made not later than the
17 60th legislative day.

18 (2) Commission members shall serve a term of 4 years.

19 (3) ~~in---the---event~~ If a vacancy occurs on the
20 commission, the appointing authority of the vacated seat
21 shall designate a successor.

22 (4) The commission shall choose one of its members as
23 chairman at its initial meeting, and the executive director
24 of the legislative council or his delegate shall serve as
25 secretary to the commission and shall record and transcribe

1 all minutes of commission meetings and prepare all
2 correspondence, notices, and formal recommendations as
3 directed by the chairman.

4 (5) The salary commission shall hold at least two
5 meetings before submitting a report to the legislature as
6 provided in 2-16-402. The commission shall hold its meetings
7 in the year prior to each first regular session of the
8 biennium.

9 (6) All meetings shall be called by the chairman of
10 the commission, and notice of the meeting dates shall be
11 given by mail to each commission member at least 20 days
12 before the day scheduled for the meeting.

13 (7) A majority of members present at any meeting is
14 sufficient to transact any business to come before the
15 meeting; however, a majority of all commission members is
16 necessary to ratify the commission's recommendations to the
17 legislature.

18 (8) Commission members shall be reimbursed from the
19 appropriation to the office of the legislative council for
20 their travel expenses incurred, as provided for in 2-18-501
21 through 2-18-503, as amended, and \$25 per day while
22 attending meetings of the commission."

23 Section 26. Section 2-16-501, MCA, is amended to read:

24 "2-16-501. Vacancies created. An office becomes vacant
25 on the happening of either any one of the following events

1 before the expiration of the term of the incumbent:

2 (1) the death of the incumbent;

3 (2) ~~his insanity found upon a commission of lunacy~~
4 ~~issued to determine the fact~~ a determination pursuant to
5 Title 53, chapter 21, part 1, that he is seriously mentally
6 ill;

7 (3) his resignation;

8 (4) his removal from office;

9 (5) his ceasing to be a resident of the state or, if
10 the office be local, of the district, city, county, town, or
11 township for which he was chosen or appointed or within
12 which the duties of his office are required to be
13 discharged;

14 (6) his absence from the state, without the permission
15 of the legislature, beyond the period allowed by law;

16 (7) his ceasing to discharge the duty of his office
17 for the period of 3 consecutive months, except when
18 prevented by sickness or when absent from the state by
19 permission of the legislature;

20 (8) his conviction of a felony or of any offense
21 involving moral turpitude or a violation of his official
22 duties;

23 (9) his refusal or neglect to file his official oath
24 or bond within the time prescribed;

25 (10) the decision of a competent tribunal declaring

1 void his election or appointment."

2 Section 27. Section 2-16-503, MCA, is amended to read:

3 "2-16-503. Notice of removal. Whenever an officer is
4 removed, declared insane seriously mentally ill, or
5 convicted of a felony or offense involving moral turpitude
6 or a violation of his official duty or whenever his election
7 or appointment is declared void, the body, judge, or officer
8 before whom the proceedings were had must give notice
9 thereof to the officer authorized to fill the vacancy."

10 Section 28. Section 2-16-513, MCA, is amended to read:

11 "2-16-513. Succession in case of termination or
12 incapacitation of primary successors. (1) If, because of an
13 enemy attack upon the United States, the governor,
14 lieutenant governor, president pro tempore of the senate,
15 and speaker of the house are killed or rendered unable to
16 serve as governor, ~~the--chairman--of--the--board--of--county~~
17 ~~commissioners--of--the--state's--most--populous--county--as~~
18 ~~determined-by-the--last--preceding--official--United--States~~
19 ~~census--shall--have--the--power--and--it--shall--be--his--duty~~
20 ~~forthwith--to--call--an--emergency--session--of--the--state--senate~~
21 ~~at--any--safe--location--within--the--state--for--the--purpose--of~~
22 ~~electing--a--president--pro--tempore--who--shall--then--assume--the~~
23 ~~office--of--governor~~ the senior member of the legislature
24 shall act as governor.

25 (2) ~~Should--such--chairman--of--the--board--of--county~~

1 ~~commissioners--of--the--most--populous--county--be--dead--or--unable~~
2 ~~to--elect--the--chairman--of--the--board--of--the--next--most--populous~~
3 ~~county--shall--exercise--the--power--granted--by--this--section.~~ He
4 shall call an emergency session of the legislature at a safe
5 location within the state. The legislature meeting in joint
6 session shall elect a governor.

7 (3) For the purposes of this section, the member with
8 seniority is the member who has served in the legislature
9 for the longest continuous period of time up to and
10 including his current term. If two or more members of the
11 legislature have equal seniority, the line of succession
12 among them is from eldest to youngest in age."

13 Section 29. Section 2-18-405, MCA, is amended to read:

14 "2-18-405. Payroll based on actual, end-of-period
15 figures -- pay date -- change of payroll periods. (1) By
16 January 1, 1979, all state central payroll systems shall be
17 based upon actual payroll figures submitted after the end of
18 the payroll period and may not be based upon estimated
19 payroll.

20 (2) All state payroll systems shall provide for the
21 fixing of payroll periods and designated days on which
22 salaried employees shall be paid for the preceding payroll
23 period. Such ~~the~~ pay date shall be uniform for all employees
24 of each state agency employed in the same geographic area
25 and payroll warrants shall be distributed or mailed within

1 10 business days following the close of the payroll period.

2 (3) The payroll period of employees of a state agency
3 shall ~~may~~ not be changed by inclusion of the agency into the
4 state central payroll system or by any revision or
5 modification of the system unless notice of the proposed
6 change has been given to each employee who will be affected
7 by such change in the form and manner prescribed by the
8 state auditor not less than 60 days prior to the effective
9 date of the change."

10 Section 30. Section 2-18-601, MCA, is amended to read:

11 "2-18-601. Definitions. For the purpose of this part,
12 the following definitions apply:

13 (1) "Agency" means any legally constituted department,
14 board, or commission of state, county, or city government.

15 (2) "Employee" means any person employed by the state,
16 county, or city governments except elected state, county,
17 and city officials and school teachers.

18 (3) "Permanent employee" means an employee who
19 regularly works for more than 6 months in any 12-month
20 period.

21 (4) "Part-time employee" means an employee who
22 normally works less than 40 hours a week.

23 (5) "Full-time employee" means an employee who
24 normally works 40 hours a week.

25 (6) "Temporary position" means a position created for

1 a definite period of time but not to exceed 6 months and the
2 position is not renewable.

3 (7) "Seasonal position" means a position which,
4 although temporary in nature, regularly occurs from season
5 to season or from year to year.

6 (8) "Vacation leave" means a leave of absence with pay
7 for the purpose of rest, relaxation, or personal business at
8 the request of the employee and with the concurrence of the
9 employer.

10 (9) "Sick leave" means a leave of absence with pay for
11 a sickness suffered by an employee or his immediate family.

12 (10) "Transfer" means a change of employment from one
13 agency to another agency in the same jurisdiction without a
14 break in service of more than 5 working days.

15 (11) "Continuous employment" means working within the
16 same jurisdiction without a break in service of more than 5
17 working days or without a continuous absence without pay of
18 more than 15 working days.

19 (12) "Break in service" means that period of time an
20 employee takes to change employment from one agency to
21 employment in another agency of the same jurisdiction."

22 Section 31. Section 2-18-702, MCA, is amended to read:

23 "2-18-702. Group insurance for public employees and
24 officers. (1) All departments, bureaus, boards, commissions,
25 and agencies of the state and all counties, cities, and

52

1 towns shall upon approval by two-thirds vote of the officers
 2 and employees of each such department, bureau, board,
 3 commission, agency, county, city, and town enter into group
 4 hospitalization, medical, health, including long-term
 5 disability, accident, and/or group life insurance contracts
 6 or plans for the benefit of their officers~~v~~ and employees
 7 and their dependents.

8 (2) ~~The For state officers and employees, the~~ premiums
 9 required from time to time to maintain such ~~the~~ insurance in
 10 force shall be paid by the insured officers and employees,
 11 and the auditor shall deduct said ~~the~~ premiums from the
 12 salary or wages of each officer or employee who elects to
 13 become insured, on the officer's ~~officer's~~ or employee's
 14 written order, and issue his warrant therefor to the
 15 insurer.

16 (3) For the purpose of [40-3905v1,-R&E-M,-1947] ~~this~~
 17 ~~section,~~ the plans of health service corporations for
 18 defraying or assuming the cost of professional services of
 19 licentiates in the field of health~~y~~ or the services of
 20 hospitals, clinics, or sanitariums~~v~~ or both professional and
 21 hospital services~~v~~ shall be construed as group insurance~~v~~
 22 and the dues payable under such plans shall be construed as
 23 premiums therefor."

24 Section 32. Repealer. Sections 2-1-103 and 2-15-202,
 25 MCA, are repealed.

1 Section 33. Repealer. Sections 25-506, 25-509,
 2 32-2504, 41-1604, 59-517, 59-537, 59-706 through 59-708,
 3 80-2001, 82-1306 through 82-1308, and 82-4324, R.C.M. 1947,
 4 are repealed.

-End-

March 5, 1979

Chairman Brand called the hearing to order at 10:00 a.m., with all members present.

SB 287-Sponsored by Senator Towe -- This deals with the paperwork or forms you have to fill out in order to deal with state government -- the question is are these all necessary and can that be cut down. The National Federation of Independent Businesses did a survey and found that 89% of the people want something done. 500,000 man hours a year are spent on this and that's too much. The state of Oregon did this and ended up eliminating 500 forms as unnecessary. Seven states have addressed this and I think the approach that we are taking is the most efficient and least expensive of any. The bill says that each state agency should review their forms for need, duplication, etc. and make a recommendation to the Administrative Code Committee -- and perhaps this committee could make recommendations to the next Legislature.

BARRY STEPHENSON-National Federation of Independent Businesses -- He submitted written testimony, see Attachments #1 and 1A.

ROSEMARIE STROPE-Montana Chamber of Commerce -- Anytime we have conducted a survey, paperwork came right after taxation in terms of bother and time consumption to business. I feel it would be very important that this proposed review take place. We urge your support.

NO OPPONENTS

TOWE-The Superintendent of Public Instruction has already instigated a review like this and I have a list if you would like to look at it containing some of the information she has accumulated.

PORTER-Does this include forms within the agency? TOWE-It would be all forms that the public has to deal with. Interoffice memos aren't covered nor are they within the scope of the bill. Public Instruction has started a forms review procedure where anytime a new form is requested it has to go through a review procedure to see about duplication. BRAND-What about business? STROPE-We think that each business' expenses could possibly be reduced by 1/3.

CHAD SMITH-Montana Hospital Association -- He submitted written testimony, see Attachment #1B.

SB 375-Sponsored by Senator Graham -- This is a Code Commissioner bill. (For her explanation, see the bill summary, it is attached to that)

JIM LEAR-Staff Attorney, Legislative Council -- This is the culmination of the record of Title 2. In the future there will be just one or two bills. He went over the summary referenced above.

NO OPPONENTS

McBRIDE-What is the age thing in the line of succession? LEAR-The state does have the power to make discriminatory decisions relative to action in matters of age. Where this is a Code Commissioner bill, any other enactment that was dealt with in

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54

March 5, 1979

(LEAR continued)--this session would supersede this bill.

SB 379-Sponsored by Senator Graham -- This is a very simple little bill that cleans up some language. It says the Office of Code Commissioner is created within the Legislative Services Division -- now there is no such thing as Legal Services, they are all integrated.

JIM LEAR-Staff Attorney, Legislative Council -- We concur with what the Senator said and support the bill.

NO OPPONENTS

SB 114-Sponsored by Senator Fasbender -- This is due to some action taken last session CIBUS -- we asked that all university systems come under CIBUS and now we are asking that all data processing equipment come under this. This asks then that all of this equipment be useable as a whole.

FRANCIS BARDANOUVE-Representative from Harlem -- I urge your concurrence.

GEORGE BOUSLIMAN-Budget Director -- We would feel alot more comfortable about having this kind of authority if the Legislature enacted it.

DOYLE SAYBY-Deputy Director, Department of Administration -- We had this responsibility in the old Code, and found that it was difficult to buy services and difficult to control. So, we ask that this be transferred to the Budget Director.

NO OPPONENTS

PORTER-On line 17, "approve the procurement" -- would this include leasing?

FASBENDER-Yes. PORTER-Would this determine the software and languages?

MIKE MELDAHL-Data Processing Coordinator, Governor's Office -- This would make sure that all languages are compatible.

SB 115-Sponsored by Senator Fasbender -- This repeals a section relative to federal assistance management and eliminates a duplication. It was submitted at the request of the Office of Budget & Program Planning.

GEORGE BOUSLIMAN-Budget Director -- This was apparently born out of the notion that one could put all the information anyone would need for federal assistance in one spot. It includes the requirement that anytime an agency requests federal assistance it has to get approval from the Board.

NO OPPONENTS

SB 156-Sponsored by Senator Story -- The sponsor couldn't be present at the hearing due to the need for a quorum in the Senate.

JIM TURODIT-Assistant Administrator, PERS -- He submitted written testimony, see Attachment #2. He also called the committee's attention to the Statement of Intent which was drafted by PERS.

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55

TOM SCHNEIDER-MPEA Executive Director -- Our main concern is that in the past employees have had to wait for their refunds for undue amounts of time sometimes, and this was because the employer contributions haven't been received by PERS. I think this committee should be aware that the Board can waive the interest penalty if the delay was no one's fault. So, if its a situation of change in local government or computer breakdown, the board doesn't have to assess the interest penalty. But, if it is a reporting agency neglecting to report, then the Board can crack down on the agency.

NO OPPONENTS

McBRIDE-On page 1 the date is changed from the 10th to the 15th -- is that going to help? TURCOTT-You have various reporting deadlines and the 10th is very difficult for some agencies; so this sets a definite date that these things are due. That third recommendation is in response to refund requests, to write everyone of them is difficult and time consuming.

EXECUTIVE SESSION

SB 156-McBRIDE moved to hold for further information, which carried.

SB 114-O'CONNELL moved BE CONCURRED IN, which carried unanimously.

SB 115-JOHNSTON moved BE CONCURRED IN, which carried unanimously.

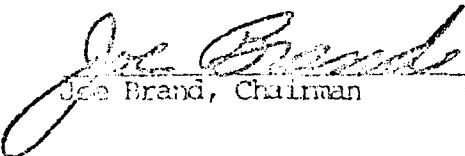
SB 287-MACONE moved BE CONCURRED IN, which carried unanimously.

SB 375-STAGMILLER moved BE CONCURRED IN, which carried unanimously.

SB 379-SALES moved BE CONCURRED IN, which carried unanimously.

SB 171-ZEZOTARSKI-I talked with the sponsor and his intent was just office and warehouse space, and said he would be satisfied with just that; but I went through the statutes and we could create a new section defining office space, facilities, etc. and what is doesn't include. KANDUCH-I would agree with the new section. ZEZOTARSKI-If it is defined you won't have to go through all the other sections if you want to change it just to add a new word.

Adjourned: 11:10 a.m.


Joe Brand, Chairman


Rita Sierke, Secretary

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56

SENATE BILL NO. 375

INTRODUCED BY GRAHAM

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO GOVERNMENT STRUCTURE AND ADMINISTRATION; REPEALING SECTIONS 2-1-103 AND 2-15-202, MCA, AND SECTIONS 25-506, 25-509, 32-2504, 41-1604, 59-517, 59-537, 59-706 THROUGH 59-708, 80-2001, 82-1306 THROUGH 82-1308, AND 82-4324, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-1-204, MCA, is amended to read:

"2-1-204. Military reservations -- service of process.

(1) Authority is granted to and acknowledged in the United States to exercise exclusive legislation as provided by the constitution of the United States over the military reservations reservation of ~~Fort-Assiniboine--Fort--Eastern~~ ~~Fort--Keogh--Fort-Maginnis~~ Fort Missoula ~~and Fort-Shaw~~ as now established by law to the same extent and with the same effect as if ~~said--reservations~~ the reservation had been purchased by the United States by consent of the legislative assembly of the state of Montana so long as ~~said--places~~ remain it remains a military reservations reservation.

(2) All legal process of the state, both civil and

1 criminal, may be served upon persons and property found
2 within ~~any-of-said-reservations~~ the reservation in all cases
3 where the United States ~~has--not~~ does not have exclusive
4 jurisdiction."

5 Section 2. Section 2-1-302, MCA, is amended to read:

6 "2-1-302. Resolution of Indian tribes requesting state
7 jurisdiction -- governor's proclamation -- consent of county
8 commissioners. (1) Whenever the governor of this state ~~shall~~
9 receive ~~receives~~ from the tribal council or other governing
10 body of the Confederated Salish and Kootenai Indian tribes
11 ~~or any other~~ community, band, or group of Indians in this
12 state, a resolution expressing its desire that its people
13 and lands be subject to the criminal ~~and/or~~ civil
14 jurisdiction ~~or both~~ of the state of Montana to the extent
15 authorized by federal law and regulation, he shall issue
16 within 60 days a proclamation to the effect that such
17 jurisdiction ~~shall apply~~ applies to those Indians and their
18 territory or reservation in accordance with the provisions
19 of this part.

20 (2) He shall ~~the~~ governor may not issue ~~such~~ the
21 proclamation until ~~such~~ the resolution has been approved in
22 the manner provided for by the charter, constitution, or
23 other fundamental law of the tribe or tribes, if said
24 document provides for such approval, and there has been
25 first obtained the consent of the board of county

1 commissioners of each county which encompasses any portion
2 of the reservation of such tribe or tribes."

3 Section 3. Section 2-3-113, MCA, is amended to read:

4 "2-3-113. Declaratory rulings to be published. The
5 declaratory rulings of any board, bureau, commission,
6 department, authority, agency, or officer of the state which
7 is not subject to the Montana Administrative Procedure Act
8 shall be published and be subject to judicial review as
9 provided under 2-4-623(6) and 2-4-501, respectively."

10 Section 4. Section 2-4-102, MCA, is amended to read:

11 "2-4-102. Definitions. For purposes of this chapter,
12 the following definitions apply:

13 (1) "Administrative code committee" or "committee"
14 means the committee provided for in Title 5, chapter 10,
15 part 3 14.

16 (2) "Agency" means any agency, as defined in 2-3-102,
17 of the state government, except that the provisions of this
18 chapter do not apply to the following:

19 (a) the state board of pardons, except that the board
20 shall be subject to the requirements of 2-4-103, 2-4-201,
21 2-4-202, and 2-4-306 and its rules shall be published in the
22 administrative rules of Montana and Montana administrative
23 register;

24 (b) the supervision and administration of any penal
25 institution with regard to the institutional supervision,

1 custody, control, care, or treatment of youths or prisoners;

2 (c) the board of regents and the Montana university
3 system;

4 (d) the financing, construction, and maintenance of
5 public works.

6 (3) "ARM" means the administrative rules of Montana.

7 (4) "Contested case" means any proceeding before an
8 agency in which a determination of legal rights, duties, or
9 privileges of a party is required by law to be made after an
10 opportunity for hearing. The term includes but is not
11 restricted to ~~rate--making~~ ratemaking, price fixing, and
12 licensing.

13 (5) "License" includes the whole or part of any agency
14 permit, certificate, approval, registration, charter, or
15 other form of permission required by law but does not
16 include a license required solely for revenue purposes.

17 (6) "Licensing" includes any agency process respecting
18 the grant, denial, renewal, revocation, suspension,
19 annulment, withdrawal, limitation, transfer, or amendment of
20 a license.

21 (7) "Party" means any person or agency named or
22 admitted as a party or properly seeking and entitled as of
23 right to be admitted as a party, but nothing herein shall be
24 construed to prevent an agency from admitting any person or
25 agency as a party for limited purposes.

1 (8) "Person" means any individual, partnership,
2 corporation, association, governmental subdivision, or
3 public organization of any character other than an agency.

4 (9) "Register" means the Montana administrative
5 register.

6 (10) "Rule" means each agency regulation, standard, or
7 statement of general applicability that implements,
8 interprets, or prescribes law or policy or describes the
9 organization, procedures, or practice requirements of an
10 agency. The term includes the amendment or repeal of a prior
11 rule but does not include:

12 (a) statements concerning only the internal management
13 of an agency and not affecting private rights or procedures
14 available to the public;

15 (b) declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of such
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually relating to
21 hunting, fishing, and trapping when there is a statutory
22 requirement for the publication of such rules and rules
23 adopted annually relating to the seasonal recreational use
24 of lands and waters owned or controlled by the state when
25 the substance of such rules is indicated to the public by

1 means of signs or signals;

2 (e) rules implementing the state personnel
3 classification plan, the state wage and salary plan, or the
4 statewide budgeting and accounting system;

5 (f) uniform rules adopted pursuant to interstate
6 compact, except that such rules shall be filed in accordance
7 with 2-4-306 and shall be published in the administrative
8 rules of Montana.

9 (11) "Substantive rules" are either:

10 (a) legislative rules, which if adopted in accordance
11 with this chapter and under expressly delegated authority
12 have the force of law and when not so adopted are invalid;
13 or

14 (b) adjective or interpretive rules, which may be
15 adopted in accordance with this part and under express or
16 implied authority to codify an interpretation of a statute
17 although such interpretation lacks the force of law."

18 Section 5. Section 2-6-103, MCA, is amended to read:

19 "2-6-103. Filing and copying fees. (1) The secretary
20 of state, for services performed in his office, must ~~shall~~
21 charge and collect the following fees:

22 (a) for each copy of any law, resolution, record, or
23 other document or paper on file in his office, except
24 corporate papers, 40 cents per folio or, if the copy is made
25 by any process of reproduction by photographic, photostatic,

1 or similar process, the fee shall be 50 cents per page or
2 fraction thereof;

3 (b) for affixing certificate and seal, \$2;

4 (c) for receiving and recording each official bond,
5 \$10;

6 (d) for each commission or other document signed by
7 the governor and attested by the secretary of state (pardon,
8 military commissions, and extraditions excepted), \$5;

9 (e) for filing each trademark, \$5;

10 (f) for filing and recording each assignment of a
11 trademark, \$5;

12 (g) for issuing each certificate of record, \$5;

13 (h) for filing and recording miscellaneous papers,
14 records, or other documents, \$5;

15 (i) for filing and recording any other paper not
16 otherwise herein provided for, \$5;

17 (j) for filing and recording any paper, record, or
18 other document or other than a standard form when
19 recommended by the secretary of state, \$5;

20 (k) when a copy of any law, resolution, record, or
21 other document or paper on file in the office of the
22 secretary of state is presented for comparison and
23 certification, 10 cents per folio must be charged and
24 collected for proofreading the same.

25 (2) No member of the legislature or state or county

1 officer ~~can~~ may be charged for any search relative to
2 matters appertaining to the duties of his office or be
3 charged--any--fee for a certified copy of any law or
4 resolution passed by the legislature relative to his
5 official duties.

6 (3) Fees ~~must~~ shall be collected in advance and when
7 collected by the secretary of state ~~must shall~~ be paid--to
8 the--state-treasurer-at-the-end-of-each-quarter--as-provided
9 in-the-constitution deposited pursuant to 17-6-105."

10 Section 6. Section 2-6-302, MCA, is amended to read:

11 "2-6-302. Official records management -- powers and
12 duties. In order to insure the proper management and
13 safeguarding of official records, the Montana historical
14 society shall:

15 (1) establish and operate the state archives as
16 authorized by appropriation for the purpose of storing and
17 servicing official records transferred to the custody of the
18 state archives;

19 (2) in cooperation with the department of
20 administration and ~~any-committee-or-council-established-by~~
21 ~~law-to-regulate-the-retention-of-public-records,~~ the state
22 records committee provided for in 2-15-1013 establish
23 guidelines for the inventorying, cataloging, retention, and
24 transfer of all official records;

25 (3) maintain and enforce restrictions on access to

1 official records in the custody of the state archives in
2 accordance with the provisions of this part;

3 (4) provide adequate housing and care of official
4 records in the custody of the state archives to insure their
5 proper preservation and use by the public;

6 (5) in accordance with the guidelines established
7 pursuant to subsection (2), remove and destroy duplicate
8 official records and official records of insignificant
9 historical value from the records deposited in the state
10 archives."

11 Section 7. Section 2-9-103, MCA, is amended to read:

12 "2-9-103. Actions under invalid law or rule -- same as
13 if valid -- when. (1) If an officer, agent, or employee of
14 ~~the-state-or-of-a-county-municipality-taxing-district--or~~
15 ~~other-political-subdivision-of-the-state~~ a governmental
16 entity acts in good faith, without malice or corruption, and
17 under the authority of law and that law is subsequently
18 declared invalid as in conflict with the constitution of
19 Montana or the constitution of the United States, neither he
20 nor any other officer or employee of the governmental entity
21 he represents nor the governmental entity he represents is
22 civilly liable in any action in which he, such other
23 officer, or such governmental entity would not have been
24 liable had the law been valid.

25 (2) If an officer, agent, or employee of ~~the-state-or~~

1 ~~of-a-county-municipality-taxing-district--or--other~~
2 ~~political-subdivision-of-the-state~~ a governmental entity
3 acts in good faith, without malice or corruption, and under
4 the authority of a duly promulgated rule or ordinance and
5 that rule or ordinance is subsequently declared invalid,
6 neither he nor any other officer, agent, or employee of the
7 governmental ~~unit entity~~ he represents nor the governmental
8 entity he represents is civilly liable in any action in
9 which no liability would attach had the rule or ordinance
10 been valid."

11 Section 8. Section 2-9-306, MCA, is amended to read:

12 "2-9-306. Construction of policy conditions --
13 customary exclusions. Any insurance policy, rider, or
14 endorsement issued and purchased after July 1, 1973, to
15 insure against any risk which may arise as a result of the
16 application of ~~[this-act] parts 1 through 3 of this chapter~~
17 which contains any condition or provision not in compliance
18 with the requirements of ~~[this-act] parts 1 through 3~~ shall
19 not be rendered invalid thereby but shall be construed and
20 applied in accordance with such conditions and provisions as
21 would have applied had such policy, rider, or endorsement
22 been in full compliance with ~~[this-act] parts 1 through 3~~,
23 provided the policy is otherwise valid. This section ~~shall~~
24 ~~may~~ not be construed to prohibit any such insurance policy,
25 rider, or endorsements from containing standard and

1 customary exclusions of coverages which ~~that~~ the department
2 of administration ~~deems--to--be~~ considers reasonable and
3 prudent upon considering the availability and the cost of
4 such insurance coverages."

5 Section 9. Section 2-9-514, MCA, is amended to read:

6 "2-9-514. Additional security. (1) The additional bond
7 given pursuant to 2-9-513(2) must be in such penalty as
8 directed by the court, judge, board, officer, or other
9 person and in all other respects similar to the original
10 bond and approved by and filed with the same officer as
11 required in case of the approval and filing of the original
12 bond.

13 (2) Every such additional bond so filed and approved
14 is of like force and obligation upon the principal and
15 sureties therein, from the time of its execution, and
16 subjects the officer and his sureties to the same
17 liabilities, suits, and actions as are prescribed respecting
18 the original bonds of officers.

19 (3) In no case is the original bond discharged or
20 affected when an additional bond has been given, but the
21 same remains of like force and obligation as if such
22 additional bond had not been given."

23 Section 10. Section 2-15-201, MCA, is amended to read:

24 "2-15-201. Powers and duties of governor. In addition
25 to those the duties prescribed by the constitution, the

1 governor ~~has-the-power-and-must~~ shall perform the following
2 duties:

3 (1) He ~~is-to~~ shall supervise the official conduct of
4 all executive and ministerial officers.

5 (2) He ~~is-to~~ shall see that all offices are filled and
6 the duties thereof performed or, in default thereof, apply
7 such remedy as the law allows. If the remedy is imperfect,
8 he ~~is--to~~ shall acquaint the legislature therewith at its
9 next session.

10 (3) He ~~is-to~~ shall make the appointments and supply
11 the vacancies as required by law.

12 (4) He is the sole official organ of communication
13 between the government of this state and the government of
14 any other state or of the United States.

15 (5) Whenever any suit or legal proceeding is pending
16 against this state or which may affect the title of this
17 state to any property or which may result in any claim
18 against the state, he may direct the attorney general to
19 appear on behalf of the state and may employ such additional
20 counsel as he may judge expedient.

21 (6) He may require the attorney general or county
22 attorney of any county to inquire into the affairs or
23 management of any corporation existing under the laws of
24 this state.

25 (7) He may require the attorney general to aid the

1 county attorney in the discharge of his duties.

2 (8) He may offer rewards not exceeding \$1,000 each,
3 payable out of the general fund, for the apprehension of any
4 convict who has escaped from the state prison or any person
5 who has committed or is charged with an offense punishable
6 by death.

7 (9) He ~~must~~ shall perform such duties respecting
8 fugitives from justice as are prescribed by Title 46,
9 chapter 30.

10 (10) He ~~must~~ shall issue and transmit election
11 proclamations, as prescribed by 13-11-101.

12 (11) He ~~must~~ shall issue land warrants and patents, as
13 prescribed in 77-2-342.

14 (12) He ~~must--on--or--before--the--second--Monday--of--~~
15 ~~November---in---the--year--1892--and--in--each--second--year~~
16 ~~thereafter--deliver--to--the---secretary---of---state---for~~
17 ~~publication--at--shall prepare a biennial reports of officers~~
18 ~~and--boards--for--the--2--preceding-years report pursuant to~~
19 ~~2-7-102.~~

20 (13) He may require any officer or board to make
21 special reports to him, upon demand, in writing.

22 (14) He ~~must~~ shall discharge the duties of member of
23 the board of examiners, of nonvoting ex officio member of
24 the state board of education, and of member of the board of
25 land commissioners.

1 (15) He has ~~such the~~ other powers and must perform ~~such~~
2 ~~the~~ other duties as are devolved upon him by this code or
3 any other law of this state."

4 Section 11. Section 2-15-401, MCA, is amended to read:
5 "2-15-401. Duties of secretary of state. In addition
6 to the duties prescribed by the constitution, it is the duty
7 of the secretary of state to:

8 (1) attend at every session of the legislature for the
9 purpose of receiving bills and resolutions thereof and to
10 perform such other duties as may be devolved upon him by
11 resolution of the two houses or either of them;

12 (2) keep a register of and attest the official acts of
13 the governor, including all appointments made by him, with
14 date of commission and names of appointees and predecessors;

15 (3) affix the great seal, with his attestation, to
16 commissions, pardons, and other public instruments to which
17 the official signature of the governor is required;

18 (4) record in proper books all conveyances made to the
19 state and all articles of incorporation filed in his office;

20 (5) ~~receive--and--record--in--proper--books--the--official~~
21 ~~bonds--of--at--the--state--officers--and--then--deliver--the~~
22 ~~originals--to--the--state--treasurer;~~

23 (6) ~~(5)~~ take and file in his office receipts for all
24 books distributed by him and direct the county clerk of each
25 county to do the same;

W

1 ~~§7(16)~~ certify to the governor the names of those
2 persons who have received at any election the highest number
3 of votes for any office, the incumbent of which is
4 commissioned by the governor;

5 ~~§8(17)~~ furnish, on demand, to any person paying the
6 fees therefor, a certified copy of all or any part of any
7 law, record, or other instrument filed, deposited, or
8 recorded in his office;

9 ~~§9--notify--in--writing--the--county--attorney--of--the~~
10 ~~proper-county-of-the-failure-of-any-officer-in-his-county-to~~
11 ~~file-in-his-office-the-sworn-statement-of-fees--received--by~~
12 ~~such-officers~~

13 ~~§10--present-to-the-legislature-at-the-commencement-of~~
14 ~~each--session--thereof--a-full-account-of-all-purchases-made~~
15 ~~and--expenses--incurred--in--furnishing--fuel--lights--and~~
16 ~~stationery~~

17 ~~§11(12)(1)~~ keep a fee book in which must be entered
18 all fees, commissions, and compensation of whatever nature
19 or kind by him earned, collected, or charged, with the date,
20 name of payer, paid or unpaid, and the nature of the service
21 in each case, which book must be verified annually by his
22 affidavit entered therein;

23 ~~§12(10)(9)~~ file in his office descriptions of seals
24 in use by the different state officers and furnish such
25 officers with new seals whenever required;

1 ~~§13(11)(10)~~ discharge the duties of member of the
2 board of examiners and of the board of land commissioners
3 and all other duties required of him by law;

4 ~~§14(12)(11)~~ report to the governor--at--the--time as
5 prescribed in 2-7-102--a-detailed-account-of-all-official
6 actions-since-his-previous-reports--accompanying-the--report
7 with--a--detailed--statement--under--oath--of-the-manner-in
8 which-all-appropriations-for-his-office-have-been--expended;

9 ~~§15(13)(12)~~ receive, designate, and record trademarks
10 as provided in 30-13-103;

11 ~~§16(14)(13)~~ distribute the bound volumes of the
12 decisions of the supreme court in the manner provided by
13 3-2-604;

14 ~~§17(15)(14)~~ report annually to the legislative
15 services division of the legislative council all changes of
16 names received pursuant to 27-31-205 for publication in the
17 session laws;

18 ~~§18(16)(15)~~ report annually to the legislative
19 services division of the legislative council all watercourse
20 name changes received pursuant to 85-2-134 for publication
21 in the session laws.

22 ~~§17(16)~~ keep a register of all applications for pardon
23 or for commutation of any sentence, with a list of the
24 official signatures and recommendations in favor of each
25 application."

Section 12. Section 2-15-412, MCA, is amended to read:

"2-15-412. Board of state canvassers. The board of state canvassers created in 13-15-502 is transferred allocated to the office of the secretary of state for administrative purposes only as prescribed in 2-15-121."

Section 13. Section 2-15-413, MCA, is amended to read:

"2-15-413. Board of election devices. There is a board of election devices as provided in ~~13-18-101~~ 13-18-103. ~~The board is allocated to the office of the secretary of state for administrative purposes only as prescribed in 2-15-121.~~"

Section 14. Section 2-15-1111, MCA, is amended to read:

"2-15-1111. Office of state coordinator of Indian affairs. (1) ~~There is an~~ office of the state coordinator of Indian affairs ~~is hereby created. The office is allocated to the department of community affairs for administrative purposes only as prescribed in 2-15-121.~~

(2) The coordinator shall be appointed by the governor from a list of five qualified Indian applicants agreed upon by the tribal councils of the respective Indian tribes of the state and shall serve at the pleasure of the governor."

Section 15. Section 2-15-1605, MCA, is amended to read:

"2-15-1605. Board of medical examiners. (1) There is a Montana state board of medical examiners.

(2) The board consists of seven members appointed by the governor with the consent of the senate. Appointments made when the senate legislature is not in session may be confirmed at the next senate session.

(3) The members are:

(a) six members having the degree of doctor of medicine; and

(b) one member having the degree of doctor of osteopathy.

(4) The members having the degree of doctor of medicine may not be from the same county. Each member shall be a citizen of the United States. Each member shall have been licensed and shall have practiced medicine in this state for at least 5 years and shall have been a resident of this state for at least 5 years; however, the 5-year requirement of practice and residency shall be waived for the initial term of appointment of the member having the degree and license of doctor of osteopathy.

(5) Each member shall serve for a term of 7 years. A term commences on September 1 of each year of appointment. A member may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

1 Section 16. Section 2-15-1614, MCA, is amended to
2 read:

3 "2-15-1614. Board of radiologic technologists. (1)
4 There is a board of radiologic technologists.

5 (2) The board consists of seven members appointed by
6 the governor:

7 (a) two members shall be radiologists licensed to
8 practice medicine in Montana;

9 (b) one member shall be a physician licensed to
10 practice medicine in Montana;

11 (c) one member shall be a chiropractor licensed to
12 practice in Montana; and

13 (d) three members shall be radiologic technologists
14 registered with the American registry of radiologic
15 technologists (ARRT) who, with the exception of the first
16 appointed members, are licensed radiologic technologists.

17 (3) Vacancies in unexpired terms shall be filled for
18 the remainder of the term.

19 (4) Each member shall serve for a term of 3 years.

20 ~~"(5) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121."~~

22 Section 17. Section 2-15-1615, MCA, is amended to
23 read:

24 "2-15-1615. Board of speech pathologists and
25 audiologists. (1) There is a board of speech pathologists

1 and audiologists.

2 (2) The board consists of five members, four of whom
3 shall:

4 (a) be appointed by the governor from names submitted
5 to him by the Montana speech and hearing association;

6 (b) have been residents of this state for at least 1
7 year immediately preceding their appointment; and

8 (c) have been engaged in rendering services to the
9 public, teaching, or performing research in the field of
10 speech pathology or audiology for at least 5 years
11 immediately preceding their appointment.

12 (3) At least two members of the board shall be speech
13 pathologists and at least two shall be audiologists, with
14 the remaining member to be a public member who is a consumer
15 of speech pathology or audiology services and who is not a
16 licensee of the board or of any other board within the
17 department. All board members, except the public members,
18 shall at all times be validly licensed in speech pathology
19 or audiology.

20 (4) Not less than 60 days before the end of each
21 calendar year, the association shall recommend at least
22 three and not more than five persons for each vacancy
23 occurring at the end of the calendar year. In the event of
24 a vacancy for an unexpired term, the association shall
25 expeditiously recommend at least two and not more than three

1 persons to fill the vacancy and the governor shall appoint
2 one of those persons to fill the unexpired term.

3 (5) Appointments shall be for 3-year terms with no
4 person eligible to serve more than two full consecutive
5 terms. Terms begin on the first day of the calendar year
6 and end on the last day of the calendar year.

7 ~~(6) The board is allocated to the department for~~
8 ~~administrative purposes only as prescribed in 2-15-121."~~

9 Section 18. Section 2-15-1631, MCA, is amended to
10 read:

11 "2-15-1631. Board of sanitarians. (1) There is a board
12 of sanitarians.

13 (2) The board shall consist of three members appointed
14 by the governor. Each member shall be a resident of this
15 state and a registered sanitarian. Each member shall have a
16 minimum of 3 years of experience practicing as a sanitarian
17 in the state of Montana.

18 (3) Members shall serve for 3-year terms. One term
19 shall expire on July 1 of each year.

20 ~~(4) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121."~~

22 Section 19. Section 2-15-1656, MCA, is amended to
23 read:

24 "2-15-1656. Board of warm air heating, ventilation,
25 and air conditioning. (1) There is a state board of warm

1 air heating, ventilation, and air conditioning.

2 (2) The board consists of seven members appointed by
3 the governor. The members are:

4 (a) two master and two journeyman mechanics, who shall
5 be ~~over-the-age-of-majority 18 years of age or older~~ and
6 residents of Montana for at least 1 year. Each mechanic
7 shall have been licensed pursuant to Title 37, chapter 70,
8 at least 2 years immediately preceding his appointment.

9 (b) one representative of the department of
10 administration responsible for the administration of parts 1
11 through 4 of Title 50, chapter 60, who shall act as
12 secretary;

13 (c) one attorney from the department; and

14 (d) one representative of the fire marshal bureau.

15 (3) Each member shall serve for a period of 4 years.

16 ~~(4) The board is allocated to the department for~~
17 ~~administrative purposes only as prescribed in 2-15-121."~~

18 Section 20. Section 2-15-1701, MCA, is amended to
19 read:

20 "2-15-1701. Department of labor and industry -- head.

21 (1) There is a department of labor and industry. As
22 prescribed in Article XII, section 2, of the Montana
23 constitution, the department head is the commissioner of
24 labor and industry.

25 (2) He shall be appointed by the governor, subject to

1 the confirmation of the senate. The term of office of the
2 commissioner shall be 4 years and until his successor is
3 appointed and qualified.

4 (3) The commissioner shall receive an annual salary in
5 such amount as may be specified by the legislature in the
6 appropriation to the department of labor and industry.

7 (4) Before entering on the duties of his office, he
8 must take and subscribe to the oath of office prescribed by
9 the--Montana--constitution PRESCRIBED BY THE MONTANA
10 CONSTITUTION."

11 Section 21. Section 2-15-2004, MCA, is amended to
12 read:

13 "2-15-2004. Division of forensic science -- head. (1)
14 There is a division of forensic science in the department of
15 justice.

16 (2) The division head is an administrator whose title
17 is state medical examiner and who shall be appointed by the
18 board--of--forensic--science director of the department. He
19 shall be a forensic pathologist qualified or certified by
20 the American board of pathology."

21 Section 22. Section 2-15-2006, MCA, is amended to
22 read:

23 "2-15-2006. Board of crime control -- composition --
24 allocation. (1) ~~The-administratively-created-agency-known-as~~
25 ~~the-governor's-crime-control-commission-is-hereby-created-by~~

1 ~~law--as--the~~ There is a board of crime control, ~~and its~~
2 ~~functions-are-continued.~~

3 (2) The board is transferred allocated to the
4 department for administrative purposes only as prescribed in
5 2-15-121. However, the board may hire its own personnel, and
6 2-15-121(2)(d) does not apply.

7 (3) The board is composed of 18 members appointed by
8 the governor in accordance with 2-15-124, ~~Members-are-to--be~~
9 ~~appointed-in-accordance-with~~ and any special requirements of
10 Title I of the Omnibus Crime Control and Safe Streets Act,
11 as amended. The board shall be representative of state and
12 local law enforcement and criminal justice agencies,
13 including agencies directly related to the prevention and
14 control of juvenile delinquency, units of general local
15 government, and public agencies maintaining programs to
16 reduce and control crime and shall include representatives
17 of citizens and professional and community organizations,
18 including organizations directly related to delinquency
19 prevention."

20 Section 23. Section 2-15-3003, MCA, is amended to
21 read:

22 "2-15-3003. Board of hail insurance. (1) There is a
23 board of hail insurance of five members consisting of the
24 state auditor, the director of agriculture, who is secretary
25 of the board, and three other members to be appointed by the

1 governor from names submitted by farmer organizations having
2 a general membership throughout the state.

3 (2) The governor shall designate one of the appointive
4 members to act as chairman of the board.

5 (3) Whenever the term of any member expires, either by
6 death, resignation, removal for cause, or expiration of his
7 term of office, the governor shall appoint his successor and
8 shall also appoint one of the board for chairman in case of
9 a vacancy in that office.

10 (4) Each appointive member of the board shall be
11 appointed for 3 years, except where ~~where~~ when such appointment is
12 made to fill a vacancy on the board, in which event such
13 appointee shall fill out the unexpired term of the member
14 whose place he fills.

15 (5) All members of the board shall be subject to
16 removal for cause by the governor.

17 (6) The board is ~~transferred allocated~~ to the
18 department of agriculture for administrative purposes only
19 as prescribed in 2-15-121."

20 Section 24. Section 2-15-3305, MCA, is amended to
21 read:

22 "2-15-3305. Rangeland resources committee. (1) The
23 governor may select a committee in accordance with
24 subsection (2) which is composed as follows:

25 (a) a chairman who is a rancher;

1 (b) a vice-chairman who is a rancher;

2 (c) a rancher from the eastern area of the state;

3 (d) a rancher from the northern area of the state;

4 (e) a rancher from the area of the state west of the
5 continental divide;

6 (f) a rancher from the southern area of the state;

7 (g) a representative from each of the following
8 agencies:

9 (i) Soil conservation service;

10 (ii) United States forest service;

11 (iii) Montana state university;

12 (iv) Farmers home administration;

13 (v) Montana stockgrowers association;

14 (vi) Office of economic development division;

15 (vii) School of forestry of the university of Montana;

16 (viii) Department of fish and game;

17 (ix) Bureau of land management;

18 (x) Montana wool growers association;

19 (xi) Department of natural resources and conservation;

20 (xii) Bureau of Indian affairs;

21 (xiii) Montana cattlemen's association;

22 (xiv) Department of state lands;

23 (xv) Society for range management;

24 (xvi) United States fish and wildlife service;

25 (xvii) United States agricultural and stabilization

1 service.

2 (2) (a) The governor shall select the members
3 described in subsections (1)(a) through (1)(f) from a list
4 submitted by the executive committee of the association of
5 conservation districts and the board of directors of the
6 Montana association of state grazing districts.

7 (b) The governor shall select the members described in
8 subsection (1)(g) from a list submitted by their respective
9 agencies and/or organizations.

10 (3) The committee members shall serve without
11 compensation.

12 (4) All persons appointed to the committee shall serve
13 at the pleasure of the governor.

14 ~~(5) The committee is allocated to the department for~~
15 ~~administrative purposes only as prescribed in 2-15-121."~~

16 Section 25. Section 2-16-401, MCA, is amended to read:

17 "2-16-401. Salary commission meetings. (1) (a) There
18 is created a Montana salary commission. The commission is
19 composed of eight members, none of whom may be public
20 officers, either elected or appointed. The commission shall
21 be appointed in the following manner and in the following
22 chronological order:

23 (i) First, the governor shall appoint one member from
24 each of the two major political parties, equally divided
25 between the United States congressional districts.

1 (ii) Next, the supreme court shall appoint one member
2 from each of the two major political parties, equally
3 divided between the United States congressional districts.

4 (iii) Next, the majority floor leader of the senate
5 shall appoint one member from his political party. The
6 minority leader of the senate shall then appoint one member
7 from his political party not from the same United States
8 congressional district as the member appointed by the
9 presiding-officer majority leader.

10 (iv) Next, the presiding speaker of the house of
11 representatives shall appoint one member from his political
12 party. Lastly, the minority leader in the house of
13 representatives shall appoint one member from his political
14 party not from the same United States congressional district
15 as the member appointed by the speaker.

16 (b) All appointments shall be made not later than the
17 60th legislative day.

18 (2) Commission members shall serve a term of 4 years.

19 (3) ~~In---the---event~~ If a vacancy occurs on the
20 commission, the appointing authority of the vacated seat
21 shall designate a successor.

22 (4) The commission shall choose one of its members as
23 chairman at its initial meeting, and the executive director
24 of the legislative council or his delegate shall serve as
25 secretary to the commission and shall record and transcribe

1 all minutes of commission meetings and prepare all
2 correspondence, notices, and formal recommendations as
3 directed by the chairman.

4 (5) The salary commission shall hold at least two
5 meetings before submitting a report to the legislature as
6 provided in 2-16-402. The commission shall hold its meetings
7 in the year prior to each first regular session of the
8 biennium.

9 (6) All meetings shall be called by the chairman of
10 the commission, and notice of the meeting dates shall be
11 given by mail to each commission member at least 20 days
12 before the day scheduled for the meeting.

13 (7) A majority of members present at any meeting is
14 sufficient to transact any business to come before the
15 meeting; however, a majority of all commission members is
16 necessary to ratify the commission's recommendations to the
17 legislature.

18 (8) Commission members shall be reimbursed from the
19 appropriation to the office of the legislative council for
20 their travel expenses incurred, as provided for in 2-18-501
21 through 2-18-503, as amended, and \$25 per day while
22 attending meetings of the commission."

23 Section 26. Section 2-16-501, MCA, is amended to read:

24 "2-16-501. Vacancies created. An office becomes vacant
25 on the happening of either any one of the following events

1 before the expiration of the term of the incumbent:

2 (1) the death of the incumbent;

3 (2) ~~his insanity, found upon a commission of lunacy~~
4 ~~issued to determine the fact~~ a determination pursuant to
5 Title 53, Chapter 21, part 1, that he is seriously mentally
6 ill;

7 (3) his resignation;

8 (4) his removal from office;

9 (5) his ceasing to be a resident of the state or, if
10 the office be local, of the district, city, county, town, or
11 township for which he was chosen or appointed or within
12 which the duties of his office are required to be
13 discharged;

14 (6) his absence from the state, without the permission
15 of the legislature, beyond the period allowed by law;

16 (7) his ceasing to discharge the duty of his office
17 for the period of 3 consecutive months, except when
18 prevented by sickness or when absent from the state by
19 permission of the legislature;

20 (8) his conviction of a felony or of any offense
21 involving moral turpitude or a violation of his official
22 duties;

23 (9) his refusal or neglect to file his official oath
24 or bond within the time prescribed;

25 (10) the decision of a competent tribunal declaring

1 void his election or appointment."

2 Section 27. Section 2-16-503, MCA, is amended to read:

3 "2-16-503. Notice of removal. Whenever an officer is
4 removed, declared ~~insane~~ seriously mentally ill, or
5 convicted of a felony or offense involving moral turpitude
6 or a violation of his official duty or whenever his election
7 or appointment is declared void, the body, judge, or officer
8 before whom the proceedings were had must give notice
9 thereof to the officer authorized to fill the vacancy."

10 Section 28. Section 2-16-513, MCA, is amended to read:

11 "2-16-513. Succession in case of termination or
12 incapacitation of primary successors. (1) If, because of an
13 enemy attack upon the United States, the governor,
14 lieutenant governor, president pro tempore of the senate,
15 and speaker of the house are killed or rendered unable to
16 serve as governor, ~~the--chairman--of--the--board--of--county~~
17 ~~commissioners--of--the--state's--most--populous--county--as~~
18 ~~determined-by-the--last--preceding--official--United--States~~
19 ~~census--shall--have--the--power--and--it--shall--be--his--duty~~
20 ~~forthwith--to--call--an--emergency--session--of--the--state--senate~~
21 ~~at--any--safe--location--within--the--state--for--the--purpose--of~~
22 ~~electing--a--president--pro--tempore--who--shall--then--assume--the~~
23 ~~office--of--governor~~ the senior member of the legislature
24 shall act as governor.

25 (2) ~~Should--such--chairman--of--the--board--of--county~~

1 ~~commissioners--of--the--most--populous--county--be--dead--or--unable~~
2 ~~to--act--the--chairman--of--the--board--of--the--next--most--populous~~
3 ~~county--shall--exercise--the--power--granted--by--this--section.~~ He
4 shall call an emergency session of the legislature at a safe
5 location within the state. The legislature meeting in joint
6 session shall elect a governor.

7 (3) For the purposes of this section, the member with
8 seniority is the member who has served in the legislature
9 for the longest continuous period of time up to and
10 including his current term. If two or more members of the
11 legislature have equal seniority, the line of succession
12 among them is from eldest to youngest in age."

13 Section 29. Section 2-18-405, MCA, is amended to read:

14 "2-18-405. Payroll based on actual, end-of-period
15 figures -- pay date -- change of payroll periods. (1) By
16 January 1, 1979, all state central payroll systems shall be
17 based upon actual payroll figures submitted after the end of
18 the payroll period and may not be based upon estimated
19 payroll.

20 (2) All state payroll systems shall provide for the
21 fixing of payroll periods and designated days on which
22 salaried employees shall be paid for the preceding payroll
23 period. ~~Such~~ The pay date shall be uniform for all employees
24 of each state agency employed in the same geographic area
25 and payroll warrants shall be distributed or mailed within

10 business days following the close of the payroll period.

(3) The payroll period of employees of a state agency shall ~~may~~ not be changed by inclusion of the agency into the state central payroll system or by any revision or modification of the system unless notice of the proposed change has been given to each employee who will be affected by such change in the form and manner prescribed by the state auditor not less than 60 days prior to the effective date of the change."

Section 30. Section 2-18-601, MCA, is amended to read:

"2-18-601. Definitions. For the purpose of this part, the following definitions apply:

(1) "Agency" means any legally constituted department, board, or commission of state, county, or city government.

(2) "Employee" means any person employed by the state, county, or city governments ~~except elected state, county, and city officials and school teachers.~~

(3) "Permanent employee" means an employee who regularly works for more than 6 months in any 12-month period.

(4) "Part-time employee" means an employee who normally works less than 40 hours a week.

(5) "Full-time employee" means an employee who normally works 40 hours a week.

(6) "Temporary position" means a position created for

a definite period of time but not to exceed 6 months and the position is not renewable.

(7) "Seasonal position" means a position which, although temporary in nature, regularly occurs from season to season or from year to year.

(8) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer.

(9) "Sick leave" means a leave of absence with pay for a sickness suffered by an employee or his immediate family.

(10) "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service of more than 5 working days.

(11) "Continuous employment" means working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days.

(12) "Break in service" means that period of time an employee takes to change employment from one agency to employment in another agency of the same jurisdiction."

Section 31. Section 2-18-702, MCA, is amended to read:

"2-18-702. Group insurance for public employees and officers. (1) All departments, bureaus, boards, commissions, and agencies of the state and all counties, cities, and

1 towns shall upon approval by two-thirds vote of the officers
 2 and employees of each such department, bureau, board,
 3 commission, agency, county, city, and town enter into group
 4 hospitalization, medical, health, including long-term
 5 disability, accident, and/or group life insurance contracts
 6 or plans for the benefit of their officers, and employees
 7 and their dependents.

8 (2) ~~The For state officers and employees, the~~ premiums
 9 required from time to time to maintain such ~~the~~ insurance in
 10 force shall be paid by the insured officers and employees,
 11 and the auditor shall deduct ~~and the~~ premiums from the
 12 salary or wages of each officer or employee who elects to
 13 become insured, on the ~~officer~~ officer's or employee's
 14 written order, and issue his warrant therefor to the
 15 insurer.

16 (3) For the purpose of ~~{40-3905, 41-1604, 59-517, 59-537, 59-706 through 59-708,~~
 17 ~~section,~~ the plans of health service corporations for
 18 defraying or assuming the cost of professional services of
 19 licentiates in the field of health, or the services of
 20 hospitals, clinics, or sanitariums, or both professional and
 21 hospital services, shall be construed as group insurance,
 22 and the dues payable under such plans shall be construed as
 23 premiums therefor."

24 Section 32. Repealer. Sections 2-1-103 and 2-15-202,
 25 MCA, are repealed.

1 Section 33. Repealer. Sections 25-506, 25-509,
 2 32-2504, 41-1604, 59-517, 59-537, 59-706 through 59-708,
 3 80-2001, 82-1306 through 82-1308, and 82-4324, R.C.M. 1947,
 4 are repealed.

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